



DATE: July 25, 2014

TO: Mayor and City Council

FROM: Mark Bernhardson, City Manager

RE: 8201 Park / Smith Park – Supplemental Background Information

This memo provides additional background information on the 8201 Park and Smith Park sites given the issues that have been raised via e-mails to City Council members and via comments during the public comment periods at City Council meetings. Many of these issues have previously been addressed through the FAQ's that are on the City's website related to 8201 Park and Smith Park.

JOINT FACILITIES

The following items relate to facilities that are shared by agreement between the owners of 8201 Park and the City.

Use of Shared Parking

- When Smith Park was reconstructed back in 1999-2001, Lutheran High School and the City came to an agreement to jointly pay for and construct parking that both entities could use. We now commonly refer to that shared parking as the "North Parking Lot".
- The North Parking Lot was constructed mostly on land owned by Xcel Energy and partially on land owned by the City of Bloomington. The City uses Xcel property for this purpose under an agreement with Xcel.
- An agreement was signed that allowed Lutheran High School to use the shared parking and count it toward their Code requirements. There was no time limit included in the agreement.
- When Lutheran High School sold 8201 Park, the rights to the shared parking went to the buyer with the land purchase.
- Because a portion of the shared parking lot is on City property (the majority is on Xcel property), some have argued that the time limit applied to use of parks should apply to the use of the shared parking in the North Parking Lot.
- However, the City Code allows the Parks and Recreation Manager to waive the time limit in parks and the Parks and Recreation Manager does so periodically throughout the City. In the case of the North Parking Lot, the presence of a shared parking agreement with no time limit, along with a Code requirement that parking lots be lighted for safety, carries greater legal weight than the fact that a portion of the North Parking Lot is on City property. Even though it may not be required because of the agreement and other

Code requirements, the Parks and Recreation Manager has been verbally approving the nighttime use of the North Parking Lot for the current owners of 8201 Park, as is generally allowed in the City Code for all parks.

- If the parking was not allowed on the shared North Parking Lot, it would increase the amount of on-street parking, which is currently legal but where the impacts would likely be greater and where the light levels are significantly lower than if the North Parking Lot was used and lighted.
- A City restriction to use the North Parking Lot after hours that results in further on street parking could NOT be the basis for any trigger of the proof of parking given that the shared parking agreement expressly gives 8201 Park rights to count said parking toward their Code required parking levels.
- An alternative is to clarify the issue with a code amendment that clarifies that, in joint use situations, hours may be set through an agreement.

CONDITIONAL USE PERMIT

The following items relate to the most recent conditional use permit issued at 8201 Park. Conditional uses receive a higher level of review than permitted uses and are often subject to additional Code requirements that relate specifically to that use. Conditions may be attached to the approval of such uses. Similar uses must be treated similarly. Violations of conditions are handled through standard enforcement measures. Compliance is most frequently achieved through communication and education.

Assemblies

- There are two primary assembly spaces within the 8201 Park building: the large gymnasium and the assembly room.
 - The room commonly referred to as “the assembly room” has a Fire Code capacity of 300 people.
 - The large gymnasium has a Fire Code capacity of 1,425 when fully used for assemblies with no bleachers, tables or chairs (standing room or seated on rugs).
 - The bleachers were designed for 500 occupants according to Lutheran High School’s application materials.
 - Only the amount of parking constructed in conjunction with the gymnasium’s construction by Lutheran High School was tied to the 500 occupant number.
 - The 500 occupants in the gym, while it was part of the Lutheran High’s development plan, was never made a formal condition in Lutheran High’s development plan approval.
 - The 2011 Conditional Use Permit for 8201 Park memorialized the 500 occupant limit through a condition of approval based on the amount of parking on site.
- There are no occupancy limits for outdoor events. Similar to other places of assembly in Bloomington, the current 8201 Park owners have held their largest special events outdoors.

- Public commenters have at times stated that prayer is not allowed in the gymnasium. That is incorrect. There is no limitation on the speech of those attending assemblies in the gymnasium or in the assembly area or any other area in the building or outside it. Such a limitation would violate state and federal law.
- As with many other schools and places of assembly, not all components of the building are used simultaneously. To make sure that this practice of not using all of the spaces in the building simultaneously, which impacts the amount of parking required, is memorialized, nonconcurrent use limitations were attached to the Conditional Use Permit. These nonconcurrent use limitations are as follows:
 - “While the school/day care is in session, the use of the large gymnasium and cafeteria is limited to school/day care activities.”
 - “While other on-site assembly areas are in use, the use of the large gymnasium and cafeteria is limited to student activities that do not generate additional parking demand.”
- If event occupancy violations become common and frequently result in parking demands that exceed off-street supply, the lack of off-street parking could be addressed through the construction of the 49 proof of parking spaces.

Parking

- Bloomington’s City Code establishes parking standards based on use types and intensity (see Section 21.301.06 (d)).
- By Code, the large gymnasium is the highest parking generator at the 8201 Park site. In addition to the gymnasium, other use areas that generate parking demand on site include assembly hall, day care, school, fitness area, small gym, and office.
- Given the non-concurrent use conditions discussed above, parking requirements for the site are as follows:

Use Area	City Code Parking Requirements Assembly Hall in Use	City Code Parking Requirements Large Gym in Use
Assembly Hall	100	XXXXX
Day Care	7	7
School	40	XXXXX
Fitness Areas	17	17
Small Gym	41	41
Large Gym	XXXXX	166
Offices	9	9
Total Required	214	240
Available Spaces	267 + 49 Proof	267 + 49 Proof

- Of the 267 spaces available to 8201 users, 157 are on the 8201 property, 74 are in the “North Parking Lot” (which is approximately 2/3 on Xcel property and approximately 1/3 on City property) and 36 are in the “southeast lot” (which is on City property). See the attached aerial graphic depicting parking supply. When under previous ownership, 8201 received rights to park in the north and southeast lots and count them toward required

parking levels via previous agreements with the City in exchange for 8201 paying, in part, for the construction of the parking and in exchange for the City receiving rights for park users to park on 8201 private property. The agreements are mutually beneficial as they lowered the costs to both parties of providing the existing parking and they reduced the need for both parties to construct even more parking. The City has used the same approach of sharing parking in other areas such as South Loop and Penn American to be more cost effective and sustainable. The agreements carry forward for any future buyer of the property.

- As of July of 2014, neither the school nor day care activities have commenced. 8201 is being used as a place of assembly and as a community center. Community center activities include use of the classrooms and athletic facilities.
- Other community centers and places of assembly for worship frequently have night and weekend classes and activities, especially various youth classes and activities such as “Sunday School” and Torah Classes. Such activities are considered customarily incidental to the community center and place of assembly uses.
- The off-street parking at 8201 Park was increased by 51 spaces over what was required of Lutheran High School when the gym was built, and a proof parking agreement was submitted for another 49 parking spots. The addition of the 51 spots increased the amount of parking on the 8201 Park site from 106 spaces to 157 spaces. If the proof of parking were constructed, that would increase the amount of parking on the 8201 Park site to 206 parking spaces, almost double the amount of off-street parking in place at the time Lutheran High School completed its gymnasium addition. Additionally, 8201 Park has access via agreement to 110 spaces they share with the City. The grand total, with proof of parking, would be 316 parking spaces.

More information on parking conditions is offered in the enclosed memo.

Proof of Parking

- The 2011 Conditional Use Permit required the construction of 50 additional parking spaces and a proof of parking agreement for another 50 parking spaces.
- The owners of 8201 Park constructed 51 new parking spaces, which means that up to 49 additional parking spaces could be triggered through the proof of parking agreement.
- Within the agreement, the current owners of 8201 Park have committed to construct 49 additional off-street parking spaces in the event that “...the City, in its sole discretion and based upon an observed lack of available parking on the property, determines that there is a need for the parking spaces thereon.”
- During regular events, such as the Friday services, the number of cars parking on street has consistently been less than the number of empty spaces off-street available to 8201 Park and to which they have rights in Smith Park. Specifically, the Southeast Lot of Smith Park remains virtually unused during Friday services. The patrons parking on street during Friday services are doing so out of convenience rather than due to a lack of off street parking. Parking on Park Avenue is legal. Staff has observed those attending other places of assembly in Bloomington (both religious and non-religious places of assembly) preferring to park in the street where legal rather than in the off-street lot.

- The events that have clearly exceeded the available off-street parking for 8201 Park are the twice per year Eid events as well as occasional special events and lectures.
- There are several Bloomington places of assembly with proof of parking agreements. The City has historically not triggered construction of proof of parking based on the lack of off-street parking for an occasional special event. If events that result in parking demands beyond the available off-street supply become common, it may be appropriate to trigger the construction of the proof of parking.

Hours of Operation

- There were also no hours of operation limits attached to the previous conditional use permit issued for a place of assembly at 8201 Park (Maranatha Community Church).
- There were also no hours of operation limits attached to the current conditional use permit at 8201 Park.
- Placing hours of operation limits on places of assembly would run afoul of state and federal laws as it would discriminate against certain religious practices.
- Noise codes apply to all uses and noise limitations become stricter during nighttime hours.

Semi-Truck Deliveries

- A CUP condition requires all loading and unloading to occur on site and off of public streets.

Conditions of CUP Approval

- The City Council's resolution of approval from 2011, which includes all conditions, is attached for reference.

CITY ORDINANCES

The following items relate to City Code requirements rather than specific zoning approvals. These requirements apply uniformly throughout the City and are enforced through standard enforcement procedures.

Lighting

- City Codes require minimum light levels to be maintained in parking lots when an establishment is open and the parking is in use.
- For 8201 Park, the minimum light level is 1.0 foot candles tapering to 0.5 foot candles at the perimeter.
- The standard is tied to light levels and not time of day. On cloud free summer days, more ambient light is present and light levels may not drop below Code required levels until well after sunset. On cloudy winter days, light levels may drop below Code required levels prior to sunset.
- Staff has, on occasion, observed lighting levels below Code requirements in the westernmost 8201 Park parking lot adjacent to Park Avenue. The first time was tied to a severed electrical service and the second time was tied to a faulty timer. In both cases, staff used standard enforcement procedures to achieve Code compliance.

- Determination of whether a violation exists requires measurement by a trained staff member using a light meter. Staff will continue to monitor light levels.

Place of Assembly/Faith Based Organization Food Safety Requirements

- Minnesota Statutes 157.22 contains a list of licensing exceptions. The licensing and inspection exceptions for faith-based organizations includes food served at *fund-raisers or community events conducted in the building or on the grounds of a faith-based organization*, provided that a certified food manager, or a volunteer trained in a food safety course, trains the food preparation workers. There is *no restriction on the number of events or days per year* that a faith-based organization can conduct food-service operations in their buildings or on their grounds under this licensing exemption. Further, food-service operations in the buildings or on the grounds *for the general membership, or during weddings, funerals, or other ceremonies* are considered private events. All these events are considered exempt from licensing and inspection requirements statewide.
- The Bloomington City Code includes the following exemptions and exclusions for food service at houses of worship:

SEC. 14.451

This Article shall not include food service operations conducted in and for a house of worship when the food service is limited to preparation, service, or consumption by the members of the house of worship and not advertised to the public.

- The above exception means no license is required for food served or shared as part of worship services. Even for public events, MS 157 exempts a license if the house of worship has a “certified food manager” overseeing food service operations (like the St. Bonaventure church fall festival). AFYFC had a certified food manager for the last Eid event, even though it was not legally considered a “public event”. AFYFC accepted Environmental Health’s offer of onsite food safety education and an Environmental Health inspector was onsite advising. AFYFC ran their Eid food service well.
- Environmental Health is again planning to be on site for the July 2014 Eid event to provide food safety education and advice if it is held at 8201 Park.

Status of Fire Prevention Orders Regarding Kitchen Equipment

- The non-Code compliant equipment has been removed and the order has been closed.

Parking Outside Designated Spaces

- Public commenters have occasionally submitted photos of cars in the 8201 Park parking lots that are double or not parked in designated spaces.
- Such parking, including valet style parking, is not a Code violation unless it occurs in designated Fire Lanes or reduces the width of drive aisles below Fire Code requirements.

INDIVIDUAL CONDUCT

The following items relate to the individual choices of patrons and are not items for which 8201 Park is legally responsible.

Police Observations

- Parking during the Friday services will continue to be monitored by Officer(s) patrolling the Smith Park area. If violations are observed, Officers will take enforcement action in the same way they do in the rest of the city. Officers inform the Special Events Supervisor of issues and violations so they can be addressed with 8201 Park staff.
- During the EID al Fitr celebration at 8201 Park in August of 2013, officers were assigned to direct traffic and enforce traffic or parking violations. 8201 Park contracted with the Police Department for contractual overtime officers to direct traffic. Traffic volumes in the area were very heavy from 0730 to 0930. After 0930 traffic volumes reduced to a steady but moderate level throughout the day. During this event Police issued 18 citations; most were for parking violations.

On-Street Parking

- On-street parking is currently legal on both sides of Park Avenue.
- In areas where on-street parking is prohibited, citations are issued to the owner of the vehicle rather than the business or facility the driver may be visiting.
- At the point that on street parking becomes an issue (particularly if it continued to be an issue after potential construction of the proof parking), the Council may desire to consider removing parking on the west side of Park Avenue from 81st Street to 84th Street that is adjacent to the homes if a majority of those residents feel that it is required on an ongoing basis. Previous indications from the neighborhood have been that no parking restrictions on Park Avenue were not desired. Such a No Parking limitation would need to be similar to those found around other religious places of assembly – which are generally a posted 24/7 parking prohibition, and would be probably declared invalid if focused specifically on time periods when the religious place of assembly had activities.

On-Street Parking of Commercial Vehicles

- Section 19.45 (c) (1) (A) prohibits the parking of semi-trucks or other “Type III Vehicles” on street immediately abutting any residential lot. That includes the west side of Park Avenue.
- Any citation for a violation of this provision would be issued to the owner of the vehicle rather than to 8201 Park.

After Hours Use of Smith Park

- Police observed a shift in the type of problems and calls for service in and around Smith Park during the past 2 years.
- Before the current owners occupied the 8201 Park building, it was common for police to be called to Smith Park for graffiti sprayed on playground equipment. There was alleged gang activity in the park and possibly those groups were responsible for the graffiti as a way to “mark” their territory.

- Previously, Police were also called to disturbances in and around the park involving juveniles who were using Smith Park a place to congregate and act mischievously.
- Since AFYFC has occupied the building, the PD has responded to many fewer of these types of calls for service.
- In recent months PD has responded to only a hand full of disturbance calls in the park; and when police have arrived, most of them have been found to have no violations.
- Recently, as it has at other parks, the City updated its security cameras that have been in place at Smith Park for about a decade.
- In the event a violation is discovered, enforcement is against the individual committing the violation and as it is not a violation of nearby facilities such as 8201 Park.

OTHER OBSERVATIONS

Traffic

The following information is based on traffic counts and observations taken in September and October of 2013 during Ramadan in response to some residents claims of excessive traffic.

Based on that data, it was found that:

- Daily volumes on streets around 8201 Park were within typical ranges for Bloomington residential streets, including during Friday services.
- Peak traffic is experienced during special events such as the Eid al Fitr and Eid al Adha holidays, which mark the culmination of Ramadan
- Weekend traffic to 8201 Park has increased compared to 2012, which may relate in part to higher use levels of the community center and the 8201 multi-purpose field.
- Other uses in the area generate traffic in addition to 8201 Park Avenue, and trips for those uses are reflected in the counts. No attempt was made to parse or isolate trips to different destinations in the area. Resident complaints about traffic could not be substantiated by the data that was collected in 2013, and no additional studies have been planned or conducted since that time.

During the July 21st Council Meeting a public commenter included the following table that was developed using data from the aforementioned collection period:

Smith Park Area - Average Daily Traffic Volumes

9/12/2013-10/15/2013

Location	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
E. 81st Street & W. of Park Ave	300	500	300	300	600	800	800
E. 82nd Street & W. of Park Ave	200	300	200	200	500	600	600
E. 83rd Street & W. of Park Ave	200	200	200	200	200	200	200
E. 84th Street & W. of Park Ave	1700	1700	1700	1700	1800	1800	1500
Park Avenue & S. of E. 83th St	200	300	200	200	400	400	300

It is believed that the commenter added together the traffic levels on several streets in the 8201 Park area and was then comparing that traffic magnitude with a single street in the Indian Mounds neighborhood that experiences traffic from a commercial use. This approach leads to a highly inaccurate comparison and double counts the same trips on different streets. Moreover,

the type and magnitude of traffic on 13th Avenue (leading to Martin Luther Manor) is distinctly different in both its nature and magnitude than the traffic using E. 81st, E. 82nd and E. 83rd Streets, so the comparison is not well founded. It has also been noted that traffic flow on all of those streets (individually) were well within normal limits for residential streets, including during the elevated use period under study. Lastly, the numbers in the table above reflect the elevated traffic numbers found around the Smith Park area, due not just to the Ramadan religious holiday (which draws some traffic daily and lasts a few weeks), but also includes traffic generated by the residents as well as from the use of the park and community gardens during that time of year. There is no reliable way to isolate the traffic generated by 8201 Park Avenue from the above numbers without additional study.

The trip data above was provided to a resident (not someone that has commented at public comments) per a public data request. The data was posted on the FAQ's.

Property History

The land that is now Smith Park and 8201 Park Avenue was acquired by the City from Marvin H. Anderson Construction in 1953.

- 8201 Park:
 - The City deeded five acres of a larger property to the School District in 1961.
 - The School District constructed Northgate Elementary School on the site in 1962 and added on to it in 1965.
 - The School District closed the school at the end of the 1986-1987 school year as it dealt with declining enrollments districtwide.
 - On August 17, 1987, the City Council approved the School District's request for a two year temporary conditional use permit to use the building for office and day care use.
 - In the late 1980s, REM Development proposed to use the site for multi-family housing. The use was opposed by the neighborhood and REM instead pursued a plan to convert the building to office use.
 - On July 17, 1989, the City Council approved REM's request to reguide the site from Public use to Office use and rezone the site from R-1 to B-1 (PD). B-1 is an office zoning district. The City Council also approved a preliminary plat to create four single family lots south of the former school and add a cul-de-sac at the north end of Columbus Avenue. Although approved, the plans apparently fell through as the final plat was never filed and the land was not transferred to REM.
 - In 1990, the City Council approved a request to reguide the site from Office to Quasi-Public and to rezone the site from B-1 (PD) to R-1 (PD) and to establish a high school on the site and add parking. Lutheran High School's application materials estimated Grade 9-12 enrollment of 150 students at the start with growth to 300 students in the future.
 - In 1991, the City Council approved revised development plans to add a gymnasium and music room to the site. Gymnasium parking was based on an occupancy of 500 people given the stated capacity of the bleachers.

- From 1990 to 2003, the City and the Lutheran High School Association entered into multiple agreements (enclosed) to jointly develop shared parking and recreational amenities on High School, City and Xcel property. Costs were split between the parties as discussed in the agreements, including 50% from 8201 Park for the north parking lot on Xcel and City property.
- Beginning in 1993, the City approved a series of three temporary conditional use permits (1993-1995, 1995-2000, and 2000-2005) for Maranatha Community Church to operate on the site. The church used the chapel area for services as well as classrooms and the gymnasium for children's activities. The final Maranatha approval preceded construction of the gymnasium.
- Lutheran High School became Concordia Academy and later ceased operating the site as a school. The school was listed for sale and sat vacant for a period of time.
- AFYFC received City approvals (resolution enclosed) for a community center/place of assembly, primary school and daycare at 8201 Park Ave. S. in May of 2011 and closed on the purchase of the property in August of 2011.
- The parking on site was increased by 51 spaces over what was required of Lutheran High School when the gym was built, and a proof parking agreement was submitted for another 49 parking spots. The addition of the 51 spots increased the amount of parking on the 8201 Park site from 106 spaces to 157 spaces. If the proof of parking were constructed, that would increase the amount of parking on the 8201 Park site to 206 parking spaces, almost double the amount of onsite parking in place at the time Lutheran High School completed its gymnasium addition. Additionally, 8201 Park has access via agreement to 110 spaces they share with the City. The grand total, with proof of parking, would be 316 parking spaces.
- AFYFC began occupancy of the building in January of 2012. The community center/place of assembly use has been in operation since. The primary school and daycare approvals remain valid but uses have not commenced.

Review of Key Issues Raised

The following matrix offers additional information on key issues that have arisen since the most recent sale of 8201 Park.

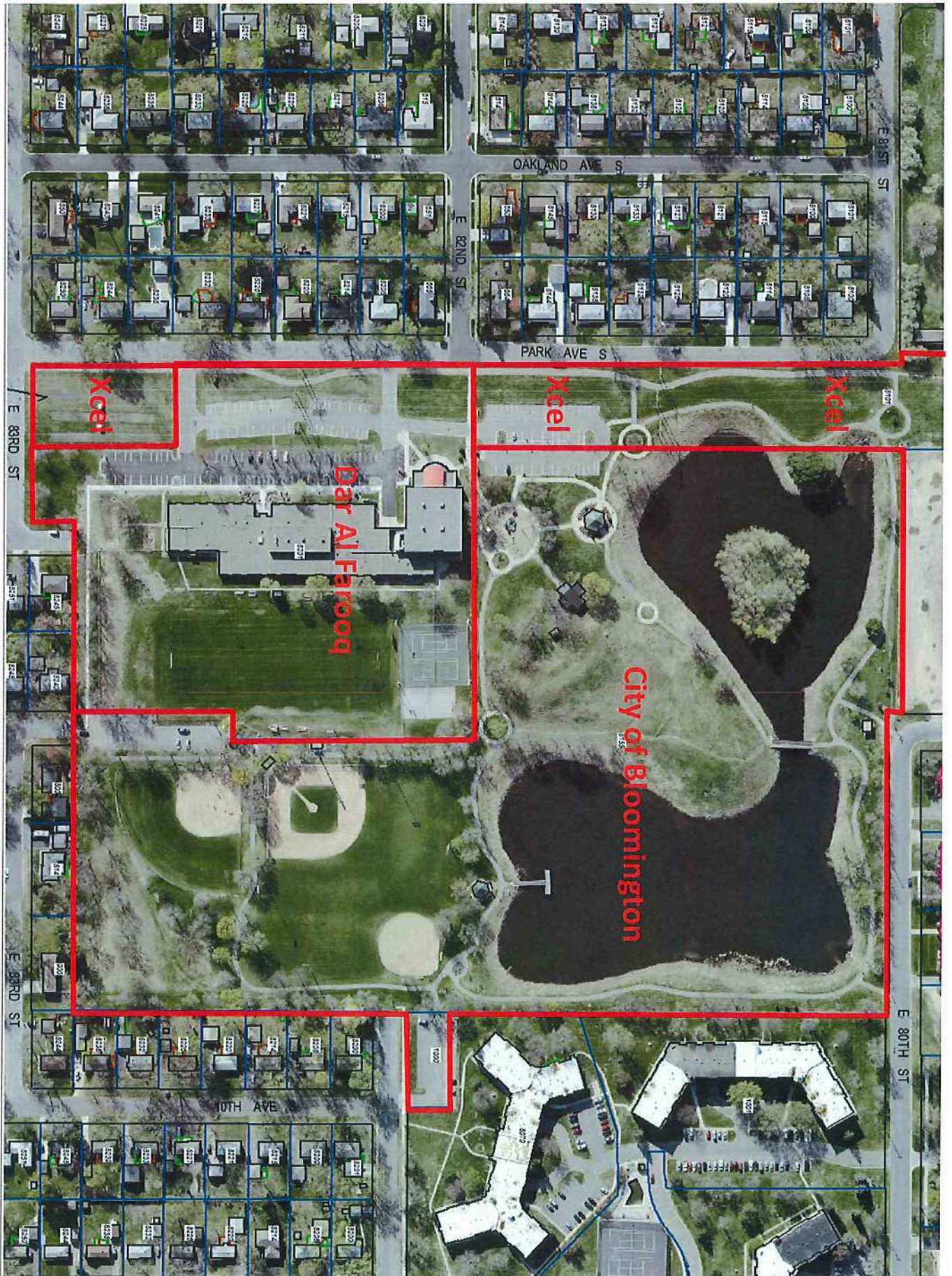
Issue	Magnitude	Frequency/ Duration	Possible Means to Address
Number of People on Site <ul style="list-style-type: none"> • In gym • In assembly room • Outdoors • Number of outdoor special events 	<ul style="list-style-type: none"> • Gym limited to 500 by CUP, and 1,425 by Fire Code (varies with setup) • Assembly room limited to 300 by both Fire Code and CUP 	Complaints have centered around special events	<ul style="list-style-type: none"> • Enforce Fire Code occupancy limits • Trigger construction of 49 proof of parking stalls. • Use special event committee to help manage large Eid events on site to reduce impacts on neighborhood

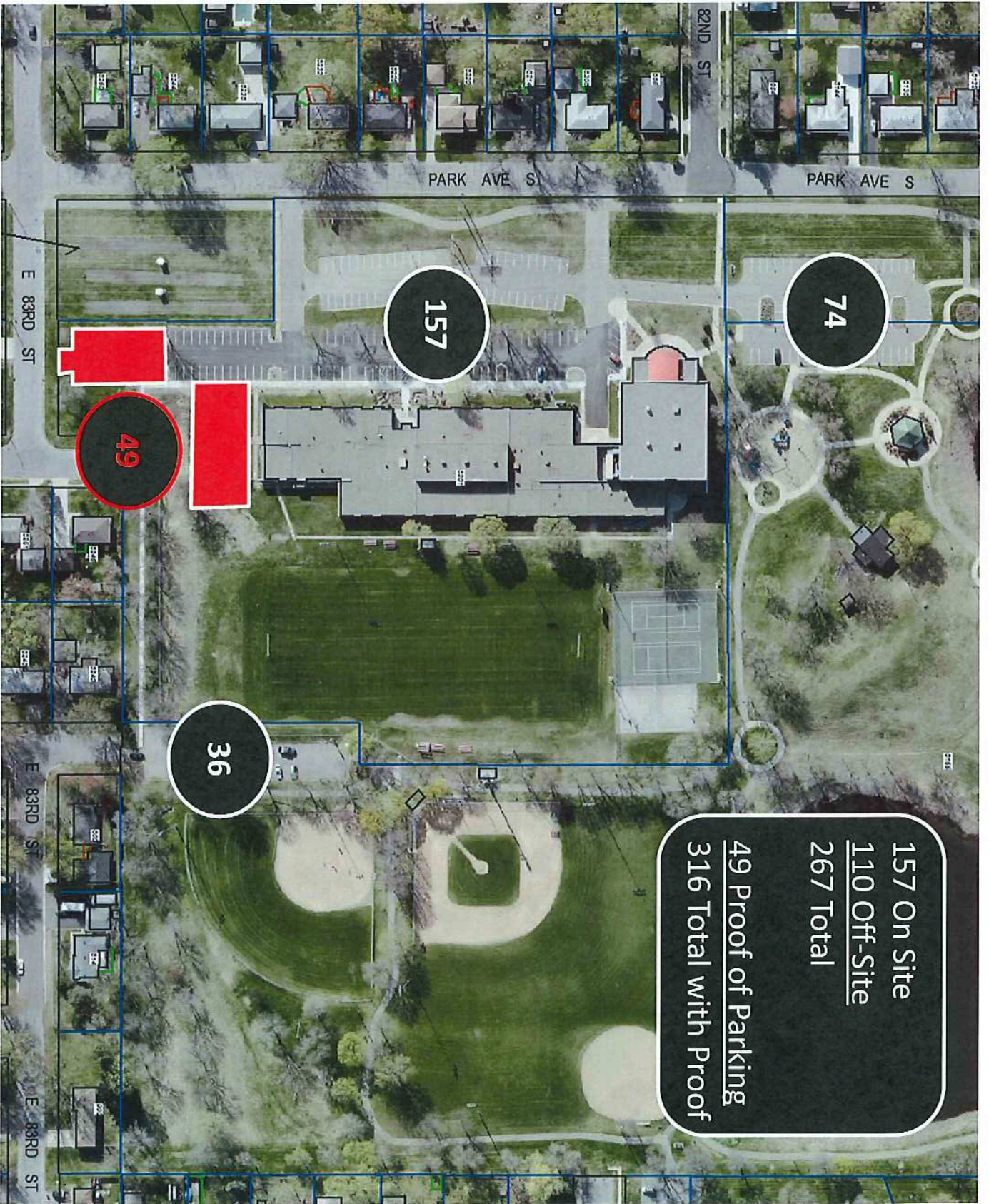
Issue	Magnitude	Frequency/ Duration	Possible Means to Address
Parking	<ul style="list-style-type: none"> • AFYFC has access to 267 off-street parking spaces • 157 are on AFYFC Property • 110 are shared with the City by agreement as noted: <ul style="list-style-type: none"> • 74 in Smith Park North • 36 in Smith Park Southeast • 49 potential future spaces remain in the proof of parking agreement 	Parking concerns have centered around special events. Dates for both Ramadan and Eid migrate through the seasons from year to year based on the lunar calendar. For example, in 2000 Ramadan began in November, in 2005 it began in October, in 2010 in August and 2015 it will begin in June.	<ul style="list-style-type: none"> • Continue to monitor site to see whether vehicle numbers exceed available off-street supply beyond occasional special events • Require construction of 49 proof of parking spaces if necessary • Post no parking zone(s) as needed • Continue to enforce parking violations against individual operators
Field Use	Occasional past use by groups not affiliated with AFYFC (semi-pro football, youth soccer groups)	A couple times in 2012 and 2013	<ul style="list-style-type: none"> • Address field use in new joint use agreement • Continue to enforce zoning limits on activities that cross the line into “commercial park” territory
Parking Lot Lighting <ul style="list-style-type: none"> • On late • Not on when people present • Headlights at night 	Impacts neighbors across street <ul style="list-style-type: none"> • 8201 Parking Lights • Smith Park North Parking Lot lights • Smith Park Lights (now on a separate switch from the Smith Park North Parking Lot) 	Complaints have been sporadic	<ul style="list-style-type: none"> • Continue to enforce lighting Code requirements (compliance on past violations have been achieved) • Turn off lights in City lots when not in use • Potentially address use of City parking during nighttime hours in new joint use agreement • Add additional screening aimed at mitigating headlights

Issue	Magnitude	Frequency/ Duration	Possible Means to Address
Additional Uses at 8201	Potential uses have commenced or have been discussed that go beyond the original approvals (restaurant, university, large charter school)	Occasional	<ul style="list-style-type: none"> Continue to notify AFYFC regarding City approval requirements.
Traffic Impacts on Surrounding Residential Streets <ul style="list-style-type: none"> Amount Speed Safety Time of Day Events 	<u>82nd Street</u> Fridays – 600 cars per day Other Weekdays – 300 cars per day <u>81st Street</u> Fridays – 550 cars per day Other Weekdays – 250 cars per day <u>Typical Local Streets in Area</u> 300 to 900 cars per day	Complaints have centered around Fridays, Ramadan and special events	<ul style="list-style-type: none"> Continue to enforce speed and traffic violations Modify access points to encourage traffic to use streets with the lowest residential impact (82nd and 83rd) Implement traffic calming

Enclosures

- A. Aerial with Property Ownership
- B. Aerial Annotated to Show Parking Supply
- C. Historic Aerial Photos
- D. Resolution Approving Conditional Use Permit at 8201 Park and Listing Conditions
- E. Memorandum on Traffic and Parking, October 11, 2013
- F. Letter from 8201 Park to Neighbors Regarding Eid al Adha Celebration on 10/15/13
- G. Frequently Asked Questions
- H. Letter to Hyder Aziz, Sally Ness and Vi Rozek - 5/18/12
- I. Letter to Hyder Aziz, Sally Ness and Vi Rozek – 6/1/12
- J. Letter to Hyder Aziz – 10/7/13

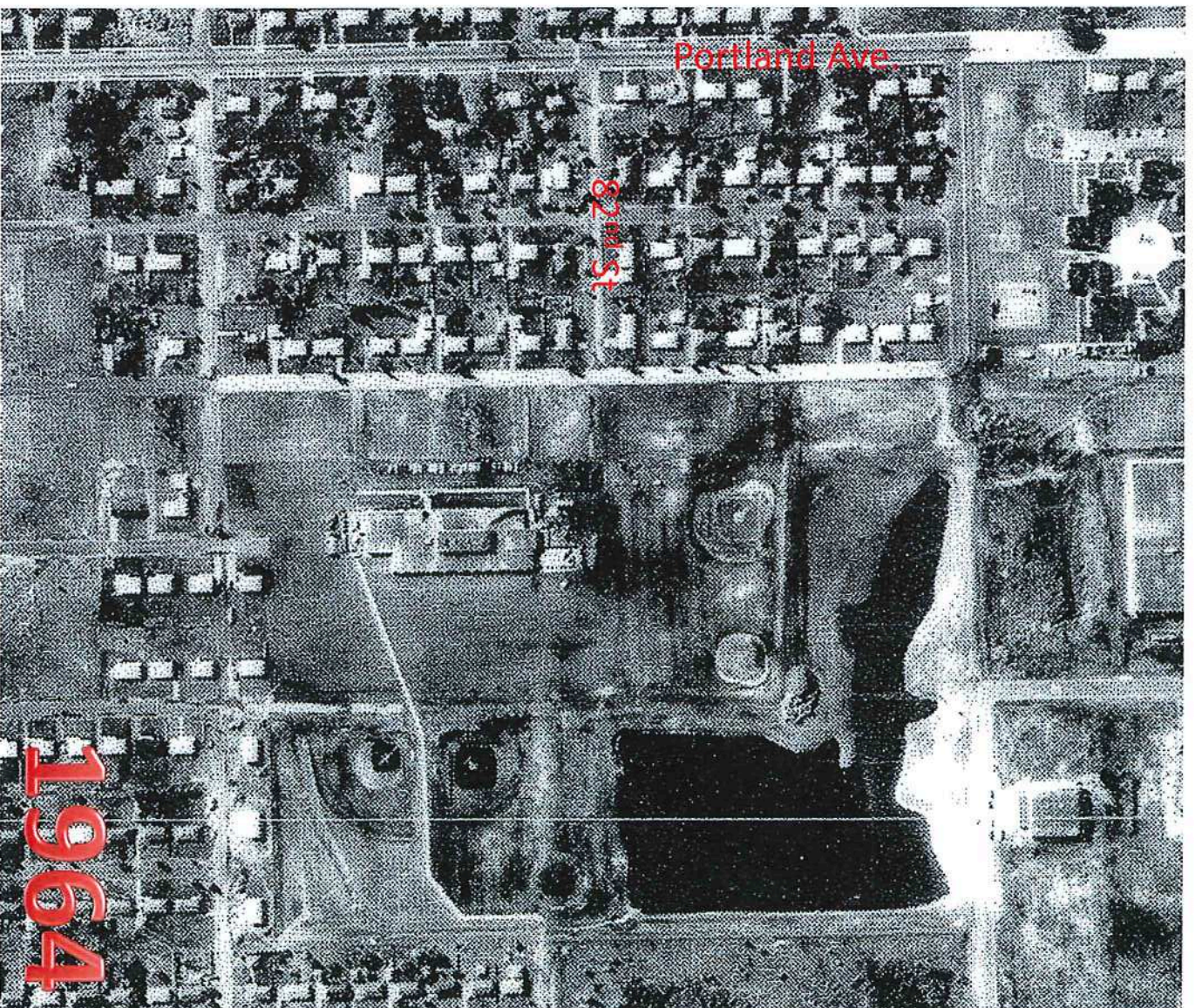




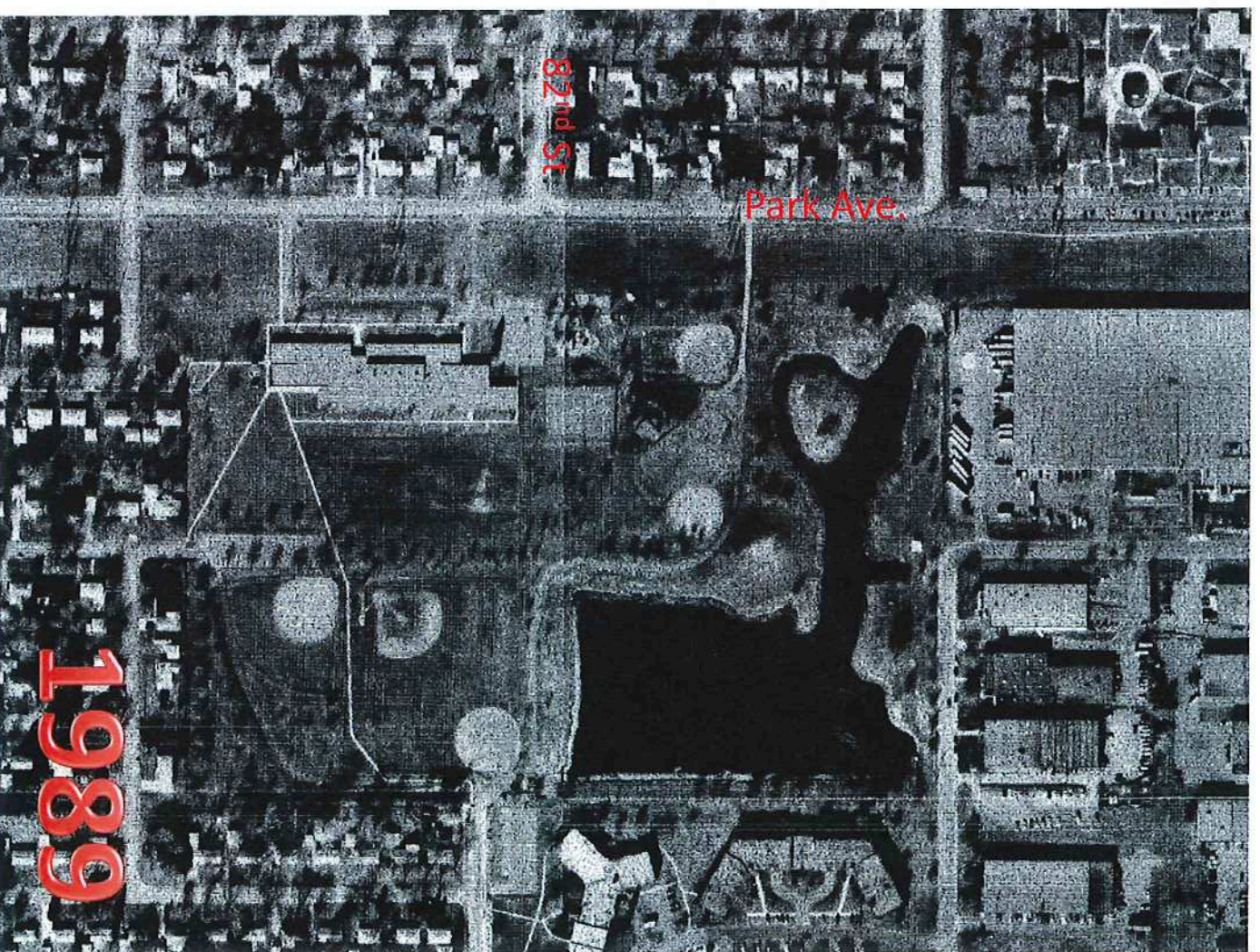
- City acquired site in 1953
- Some nearby homes in place



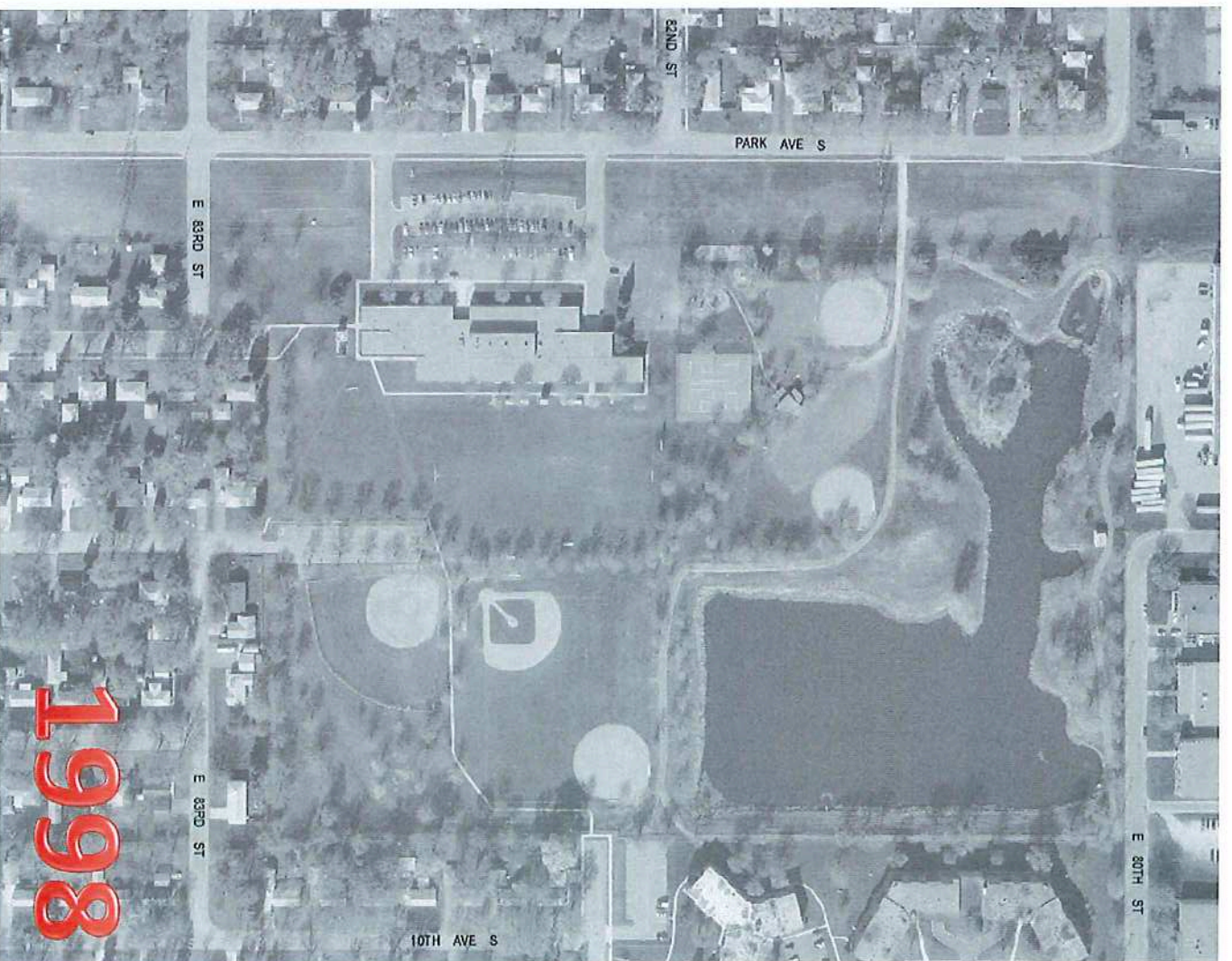
- City sold 5 acres to school district in 1961
- Northgate Elementary built in 1962
- Smith Park developed



- Northgate addition in 1965
- Northgate closed in 1987
- 1987-1989 two-year TCUP for office and day care use
- Reguided and Rezoned in 1989 for office use by REM Dvlp. (fell through)



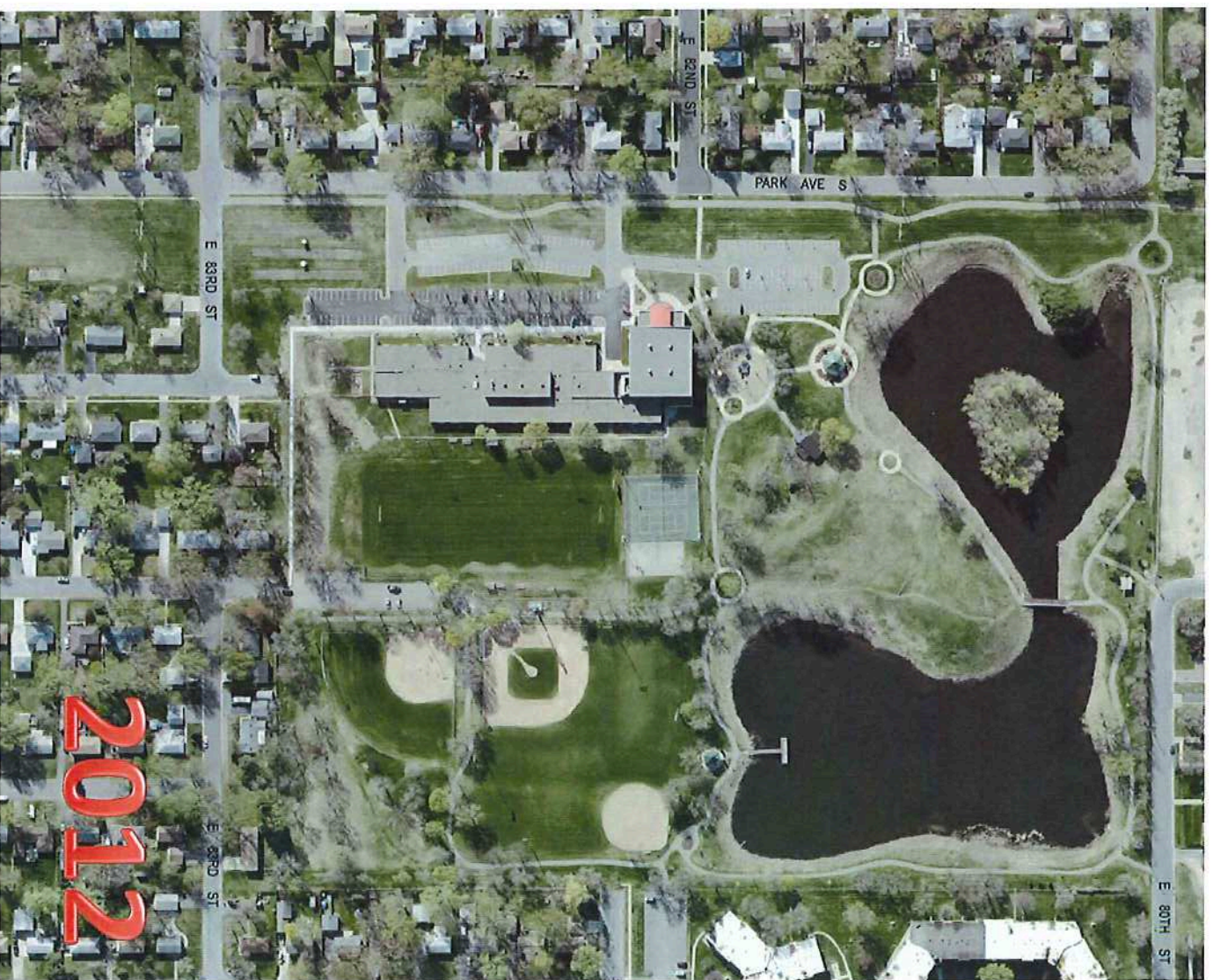
- Sold to Lutheran High School in 1990
- Reguided to Quasi-Public, rezoned to R-1
- 9-12 enrollment of 150, plans to grow to 300
- Parking added
- 1993-2005 Maranatha Community Church was approved at site



- Gymnasium addition originally approved in 1991 but not built until after 2003 – occupancy of gymnasium bleachers listed as 500
- Series of agreements from 1990 to 2003



- May of 2011 – CUP approval for place of assembly, community center, elementary school and day care
- Sale closed in August of 2011
- 51 parking spaces added
- Occupancy began in January of 2012



RESOLUTION NO. 2012- 33

A RESOLUTION APPROVING A CONDITIONAL USE PERMIT FOR A PRIVATE SCHOOL, A DAY CARE, AND A PLACE OF ASSEMBLY/COMMUNITY CENTER AT 8201 PARK AVENUE SOUTH, BLOOMINGTON, MINNESOTA

WHEREAS, the City Council of the City of Bloomington is the official governing body of the City of Bloomington; and

WHEREAS, an application for a conditional use permit for a private school, a day care, and a place of assembly/community center was filed on behalf of Dar Al Farooq, the owners of the premises located at 8201 Park Avenue South, Bloomington, Minnesota, and now legally described as follows:

Lot 1, Block 1, Smith Park 3rd Addition, Hennepin County, Minnesota

WHEREAS, the Conditional Use Permit application was for the operation of a private school, a day care and a place of assembly and that Conditional Use Permit applies only to that portion of the property previously described as Lot 2, Block 1, Smith Park 2nd Addition, Hennepin County, Minnesota.

WHEREAS, the Planning Commission has reviewed said request at a duly called public meeting and recommends approval.

WHEREAS, the City Council is empowered to approve a conditional use permit when the use is not in conflict with the Comprehensive Plan or an adopted district plan for the area, is not in conflict with the stated intent of the zoning district in which it is to be located, will not unreasonably harm the public health, safety and welfare, will not create a nuisance or unreasonable congestion injurious to nearby properties, does not interfere with the creation of a beneficial environment within its own boundaries and on adjoining properties, will not interfere with a reasonable economic benefit to the community, interrelationship provisions with contiguous and noncontiguous adjacent properties will not adversely affect pedestrian and vehicular movement, and will not adversely affect the buffering of service facilities and parking areas.

WHEREAS, the City Council has considered the report of the City staff, the findings and decision of the Planning Commission, the comments of persons speaking on the issue of the conditional use permit and the factors in Bloomington City Code Section 21.501(e)(1), (2), (3), (4), and (5).

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BLOOMINGTON IN REGULAR MEETING ASSEMBLED:

- A. That the affirmative findings of the Planning Commission are adopted by the City Council;
- B. That the conditional use permit shall expire if not used or applied in accordance with the provisions of City Code Section 21.501.04(g);
- C. That the conditional use permit may be suspended or revoked in accordance with the provisions of City Code Section 21.201.04(h);
- D. That the requested conditional use permit is approved, subject to the following conditions:
 - 1) Prior to the issuance of any certificate of occupancy, Sewer Availability Charges (SAC) shall be satisfied, if applicable;
 - 2) Prior to the issuance of any certificate of occupancy, the site development agreement must be updated to reflect all conditions of approval in Case 8915A-11;
 - 3) To ensure sufficient off-street parking:
 - a. Prior to the issuance of a certificate of occupancy for use of the building for assembly, the property owner/applicant must obtain all required approvals for and construct at least 25 City Code compliant additional on-site parking spaces on land owned by the property owner/applicant;

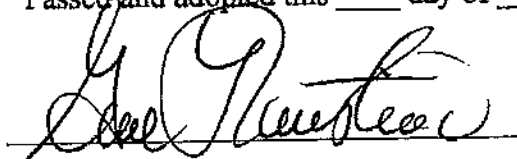
- b. Prior to use of the building as a school and prior to the use of the spaces identified as school classrooms, the property owner/applicant must obtain all required approvals for and construct at least 25 City Code compliant on-site parking spaces (in addition to parking spaces described in Condition #3a above) on land owned or permanently controlled by the property owner/applicant;
- c. Prior to the issuance of any certificate of occupancy, the property owner/applicant must sign a proof of parking agreement prepared by the City that:
 - 1. identifies the location for the construction of 50 City Code compliant on-site parking spaces (in addition to the parking spaces identified in Conditions #3a and #3b above) on land owned or permanently controlled by the property owner/applicant; and
 - 2. agrees that the additional 50 parking spaces must be constructed if overflow parking occurs;
- d. While the school/day care is in session, the use of the large gymnasium and cafeteria is limited to school/day care activities;
- e. While other on-site assembly areas are in use, the use of the large gymnasium and cafeteria is limited to student activities that do not generate additional parking demand;
- f. A sidewalk connection, as approved by the City Engineer, linking the school with the southeast Smith Park parking spaces must be constructed if overflow parking occurs;
- g. The user of the site must maintain rights to utilize the parking spaces on land not owned by the property owner/applicant as identified in the staff report and must provide copies of agreements/leases to the Planning Manager;
- h. Changes in occupancy, building use or access to the parking spaces on land not owned by the property owner/applicant as identified in the staff report must be reviewed and approved by the Planning Manager and may require an amendment to the Conditional Use Permit;
- i. Joint parking and outdoor recreation/athletic facilities usage agreements between the City and the property owner must be updated by September 1, 2011 to reflect proposed site use patterns, subject to the approval of the Parks and Recreation Manager;
- j. The property owner, subject to the review and approval of the Parks and Recreation Manager, must prepare in January of each year, an annual plan that coordinates the use of joint parking areas and outdoor recreation/athletic facilities in a manner that minimizes overlapping demand;
- k. The capacity of the large gymnasium is limited to 500 occupants;
- l. The property owner must provide traffic control services if overflow parking occurs;
- 4) Development must comply with the Minnesota State Accessibility Code;
- 5) All pickup, drop-off, loading and unloading must occur on site and off of public streets;
- 6) Alterations to utilities are at the developer's expense;

and subject to the following Code Requirements:

- 1) Building shall be provided with an automatic fire sprinkler system as approved by the Fire Marshal (MN Bldg. Code Sec. 903, MN Rules Chapter 1306; MN State Fire Code Sec. 903);
- 2) All trash and recyclable materials be stored inside the principal building (Sec. 19.51);
- 3) Recyclable materials shall be separated and collected (Sec. 10.45);
- 4) Fire lanes be posted as approved by the Fire Marshal (MN State Fire Code Sec. 503.3);
- 5) Parking lot and site security lighting shall satisfy the requirements of Section 21.301.07 of the City Code;
- 6) Sign Design be in conformance with the requirements of Chapter 19, Article X of the City Code;
- 7) The building shall not be occupied until the Building Official has issued a certificate of occupancy (Sec. 15.04); and
- 8) All underground tanks that have been out of service for at least one year must be removed as approved by the Fire Marshal (International Fire Code Section 3404.2.12.1.3).

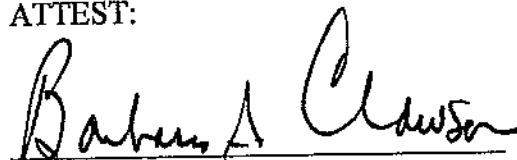
E. That additional conditional use permit documents relating to the subject premises including Case 8915A-11 will be available for inspection pursuant to Minnesota Statutes Section 462.36, Subd. 1, through the Bloomington City Planning Office.

Passed and adopted this 5th day of March, 2012.



Mayor

ATTEST:



Secretary to the Council

RESOLUTION NO. 2012- 33

The attached resolution was adopted by the City Council of the City of
Bloomington on March 5, 2012.

The question was on the adoption of the resolution, and there were 7 YEAS
and 0 NAYS as follows:

CITY OF BLOOMINGTON COUNCILMEMBERS:	YEA	NAY	OTHER
Gene Winstead	<u>✓</u>	<u> </u>	<u> </u>
Jack Baloga	<u>✓</u>	<u> </u>	<u> </u>
Tim Busse	<u>✓</u>	<u> </u>	<u> </u>
Tom Hulting	<u>✓</u>	<u> </u>	<u> </u>
Karen Nordstrom	<u>✓</u>	<u> </u>	<u> </u>
Steve Peterson	<u>✓</u>	<u> </u>	<u> </u>
Vern Wilcox	<u>✓</u>	<u> </u>	<u> </u>

RESOLUTION ADOPTED.

ATTEST:


Secretary to the Council



Enclosure E

DATE: 10/11/2013

TO: Mayor, Council, City Manager

FROM: Kirk Roberts, Traffic and Transportation Engineer

RE: Smith Park area traffic and parking issues regarding AFYFC

Background:

Since it opened in 2012, the City Council and staff have received inquiries regarding the Dar Al Farooq Youth and Family Center at 8201 Park Avenue from a few residents in the immediate area. The nature of the inquiries vary, but commonly focus on traffic in the neighborhood, on-street parking, the use of Smith Park and perceived overuse of AFYFC's building and playfield.

The purpose of this memo is to summarize the City's data regarding these issues, as well as to address questions raised in subsequent Council discussions. This memo also outlines additional tasks that should be accomplished prior to taking any exceptional action with respect to property owners and/or establishments in the area.

Traffic and Parking

Traffic Summary

- Daily volumes on all streets leading to Smith Park and the Dar Al Farooq Youth and Family Center (AFYFC) remain within typical limits for residential streets in the City.
- The primary roads used by AFYFC patrons are 81st Street and 82nd Street, with some traffic also using 83rd Street; as well as Park Avenue from the south. 84th Street, which serves as a neighborhood collector, appears unaffected.
- Volumes on 81st Street and 82nd Street approximately double on Fridays, from about 300 to 600, and 250 to 550 cars per day respectively. Volumes on both 81st and 82nd Streets are typical for residential streets on the east side of the City, which range from 300 to 900 vehicles per day.
- The Friday peak volume on 81st and 82nd Street corresponds to AFYFC service times, with an hourly rate on those streets similar to volumes found near a Bloomington elementary school during the morning and afternoon pick up and drop off.
- Weekend use of the AFYFC facility has increased in 2013. Counts taken this year show approximately 750 cars per day on 81st Street on both Saturday and Sunday, compared to 2012 counts that showed no increase in traffic on the weekends.

- No reported vehicle accidents have occurred on public streets in and around the Community Center to-date as a result of the increased traffic. In 2012 there was one unreported minor crash on the northern parking lot driveway that involved vehicles of two AFYFC patrons.

Traffic Discussion

The maximum traffic generated by AFYFC was observed as part of the religious holiday of Ramadan, which occurred on August 8, 2013. Traffic counts were not obtained for that event, but data will be collected for the similar Eid holiday occurring on October 15, 2013. Traffic data is also being collected for secular and non-secular special events and holidays at other locations throughout the City for comparison purposes. These periodic large events are typical for assembly uses, and City staff wanted to develop some objective comparative data.

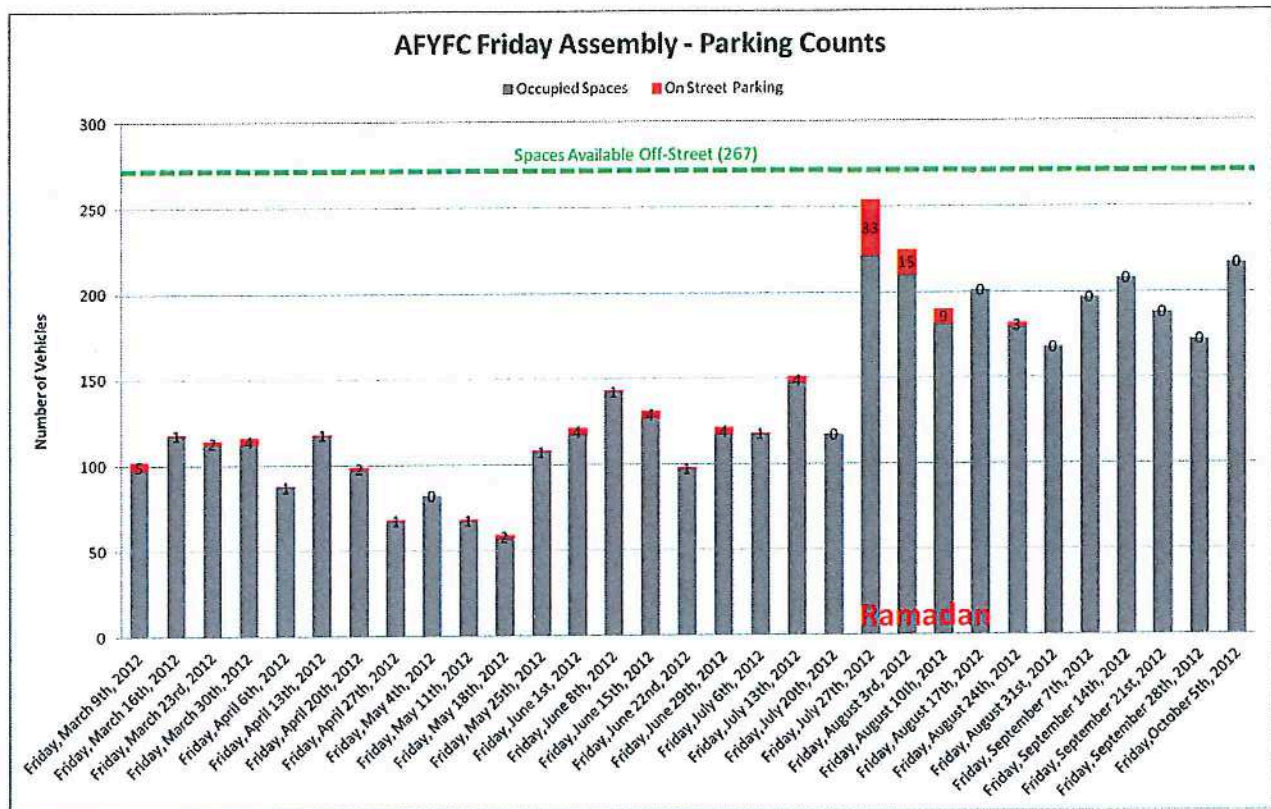
Parking Summary:

- Parking counts taken in 2012 indicate that for **ordinary** use (not including two Eid holiday celebrations per year), parking demand for services at AFYFC have not exceeded the available supply of on-site parking.
- Four to five AFYFC patrons park on-street during the Friday services, but appear to do so from personal preference, not because of limited on-site parking.
- Most of the on-street parking observed around Smith Park appears to be neighbors and their guests, with the exception of the religious holiday noted below.

Parking Discussion:

Similar to traffic, the maximum demand for parking at AFYFC was observed as part of the holiday of Eid al Fitr in 2013, and parking counts were not obtained on that day. Demand for parking was high, especially during the morning hours, when patrons were observed using legal on-street parking for several blocks around the Community Center. It was also noted that significant use of on-street parking did occur on two Fridays during the month of Ramadan leading up to Eid al Fitr. For ordinary Friday services, parking has been accommodated on-site.

It should be noted that periodic large events are typical for most assembly uses and spillover parking is often associated with holiday celebrations. No clear threshold has been established in the City about when the intensity and duration of such overflow parking becomes a burden to a neighborhood.



There is a tradeoff between residents' ability to park on-street near their homes and the negative impacts associated with others doing so on a long-term basis. At some point residents support giving up the benefit of their ability to park on the street to reduce the impacts of others parking there, but this threshold has not been reached in the Smith Park area as evidenced by limited support for the 2012 petition to restrict parking. However, there is one parking restriction that should be considered in the area:

Action Items

- 1) **Park Avenue Parking Restrictions:** Several parking citations were issued to patrons during the 2013 Eid al Fitr event, primarily along the west side of Park Avenue, which has numerous driveways, fire hydrants and other infrastructure requiring continuous access. Because of the infrequent, but high intensity use that occurred, staff recommends that on-street parking be removed from the west side of Park Avenue from 81st Street to 84th Street. If a majority of the City Council agrees, the City Manager will schedule a public hearing in 2014 after the Traffic Engineer completes a neighborhood process.
- 2) **Driveway Parking Restrictions:** Parking restrictions can be added near the AFYFC and Smith Park driveways to ensure adequate sight distance, but these restrictions are minor and do not require Council action.
- 3) **Special Event Data:** As noted, Traffic will continue to gather information pertaining to special events and holidays.

Enclosure F

RECEIVED

OCT 10 2013

Al Farooq Youth & Family Center

8201 Park Ave. South, Bloomington, MN 55420 952-767-0677

City of Bloomington
Engineering Division
Services Section

10-06-2013

Dear Neighbor,

We hope this letter finds you in good cheer.

Once again holiday season is around the corner for all of us.

Our second and last big event of the year is approaching. 15th of October is marked by Muslims with a special prayer to commemorate the sacrifice of Prophet Abraham (peace be upon him), when in obedience to God Almighty he offered his son as sacrifice. It is also commemorated to celebrate the obedience of a son to his father, as Prophet Abraham's son did obey his father.

This commemoration is the actual reason for the annual pilgrimage, the HAJJ, that millions of faithful Muslims from around the world undertake each year, hoping for forgiveness and hoping for an increase in piety. On the day of ARAFAH which is a day before Eid, most Muslims will be fasting. We believe this to be the day when God Almighty descends from His throne in the highest heaven to the lowest heaven over mount Arafah to listen to the supplications of His creatures and to give them what they want. On this day all Muslims have only one thing on their mind. And that is 'Forgiveness'.

We will be observing Eid on the 15th of October. And the way we observe Eid is to offer community prayer in the morning. Our prayers will be observed in the Al Farooq Gymnasium this year. We will have three consecutive prayer sessions to accommodate everyone. The first prayer will be at 8.30 AM, then at 9.15, and then again at 9.45. The prayer is short and the sermon is also brief. BY 11 AM most people will clear out. We have received permission from a neighboring business to use their big parking lot for overflow parking during the morning program. Hopefully this will reduce or minimize the impact on the neighborhood parking.

In the late afternoon from 4 pm to 8 pm there will be a small program for the children, games, gifts, henna and face painting etc. Everything will be indoors. Our off street parking will be sufficient for the afternoon program. We once again ask you to excuse the increased traffic this day. We normally do everything to prevent street parking by our members, but this day our community members will be parking on the streets in the neighborhood. We will have police officers and many volunteers helping us to manage the traffic on our lots.

We hope this will not cause you any inconvenience. Please excuse us, if it does. Your support and patience is greatly appreciated. .

We thank you in advance for this accommodation.

AFYFC MANAGEMENT

Al Farooq Youth and Family Center (AFYFC)

8201 Park Avenue South



Frequently asked questions

How has the site been used prior to the present time?

The building at 8201 Park Ave. S. was originally used as Northgate Elementary School, part of the Bloomington public school system. As total public school enrollments declined (from 26,000 in 1971, to 16,400 in 1980, to 11,400 in 1990, and to 10,160 in 2010), the School District sold Northgate along with several other schools and it became a private school owned by the Lutheran High School Association and later the Concordia Academy Association of Schools. The building was also used as a place of assembly by the Maranatha Community Church.

What is the anticipated use of 8201 Park Ave. S. (the former site of Concordia High School)?

The Al Farooq Youth and Family Center completed their purchase of the site on August 23, 2011. They are currently using it as a place of assembly/community center and plan to add a school and a day care which is similar to its previous use as a school and place of assembly and to several other school, worship and assembly uses in residential areas. The City of Bloomington Zoning Ordinance allows places of assembly, schools and day cares in the R-1 Zoning District after issuance of a conditional use permit. In fact, almost every place of assembly and school in the City is zoned R-1, several of which have access only from local residential streets.

What is the ownership status of the site?

Sale of the site from Concordia Academy Association of Schools to Dar Al-Farooq was finalized on August 23, 2011.

Are there use restrictions tied to the deed for the property?

In 1953, the City acquired the property now known as Smith Park from Marvin H. Anderson Construction. In 1961 the City deeded 5 acres to the Bloomington School District on which they built Northgate School. In 1966, the deed was amended by the original seller of the property to the City to remove all use

restrictions on the property. Under Minnesota Law, deed restrictions automatically expire after 30 years. Accordingly, even without the amendment in 1966, any restrictions that might have applied would have expired in 1983. The property was sold by the School District to the Lutheran High School Association in 1991. Title searches done for that sale revealed no apparent defects in the title.

What City approvals has the Al Farooq Youth and Family Center received?

On May 2, 2011, the Bloomington City Council approved a conditional use permit for a place of assembly/community center, a school and a day care within the existing building. The Al Farooq Youth and Family Center meets all of the requirements to qualify for a conditional use permit, subject to conditions of approval. The Planning Commission's and City Council's role in reviewing a Conditional Use Permit is to ensure that a use will meet City Code requirements. In the case of the Concordia High School/Maranatha Community Church transitioning to the Al Farooq Youth and Family Center, the primary City Code requirement to review relates to the amount of on-site parking required. In light of the applicant's parking needs, the fact that parking is shared in part with Smith Park and the fact that assembly use is proposed to occur at the same time as the school use, the City Council adopted conditions of approval requiring the construction of additional parking and limiting the use of the building.

No other land use approvals are required as this is a private land sale between two private parties, similar to selling a home or business property. The City's involvement is limited to whether the new use meets the applicable City Code standards.

On November 21, 2011, the Bloomington City Council approved a Preliminary and Final Plat to combine a portion of the Xcel Energy Powerline Corridor with two AFYFC owned parcels to form one parcel.

Were changes proposed to the site?

No building additions were proposed.

The Al Farooq Youth and Family Center made some interior modifications, such as completing the fire protection sprinkler system, which was previously required of Concordia Academy but not completed.

To ensure sufficient parking as required by the City Code, the City Council also required that at least 25 parking spaces be added prior to assembly use of the building, that at least 25 additional parking spaces be added prior to school use of the building and that an additional 50 "proof of parking" spaces be added if overflow parking becomes a problem. The location of the additional parking spaces was approved administratively before being subsequently constructed and complies with City Code standards. The additional parking is proposed entirely on the 8201 parcel. The potential "proof of parking" is also proposed entirely on the 8201 parcel although the Al Farooq Youth and Family center could relocate the "proof of parking" to another Code complying location in the future. [Click here to view the approved parking plan.](#)

Is the Al Farooq Youth and Family Center affiliated with the Muslim Community Center at 8910 Old Cedar Ave. S.?

No, the Al Farooq Youth and Family Center is not affiliated with other existing places of assembly in Bloomington.

For places of assembly, is the fact that the facility ownership or use will be by a religious organization or the denomination of the assembly relevant to the City's review of the application?

No. In accordance with federal law, Bloomington does not discriminate based upon religious orientation. Rather than classifying facilities as "churches," "mosques," "synagogues," "temples," etc., the Bloomington Zoning Ordinance uses the broader classification of "place of assembly." The Zoning Ordinance also does not differentiate between assemblies for worship purposes or for non-worship purposes. What is relevant to the review is how many people will be assembling and whether the assembly areas and support facilities such as parking meet City Code requirements, not the program or agenda for these assemblies. The fact that the public assemblies on this property may be religious is not relevant to the City's analysis or approvals under its Zoning Ordinance, nor does federal law allow the nature of the religious assembly enter into the City's review.

When was the original application considered by the Planning Commission and City Council?

03/24/11 Planning Commission public hearing (*Item 3*)

Approval recommended.

Watch on YouTube (*video begins at Item 3*)

04/04/11 City Council public hearing (*Item 5.2b*)

Item continued after discussion.

Watch on YouTube (*video begins at Item 5.2b*)

04/18/11 City Council public hearing (*Item 5.2d*)

Item continued after discussion.

Watch on YouTube (*video begins at Item 5.2d*)

05/02/11 City Council public hearing (*Item 5.2a*)

Application approved, subject to conditions.

Watch on YouTube (*video begins at Item 5.2a*)

05/16/11 City Council meeting (*Public Comment Period*)

During the public comment period, a request was made for the Council to reconsider the application. No motion to reconsider was made.

Watch on YouTube (*video begins at Public Comment Period*)

How was the community notified of the application?

As with any conditional use permit application, the following land use notification procedures were employed. The City uniformly adheres to these notification procedures for conditional use permits to ensure it is not discriminating against any proposed use:

A public hearing notice was published in the Bloomington Sun Current on March 10, 2011.

A public hearing notice was sent to all property owners with property wholly or partially within 500 feet of the property line of 8201 Park Avenue South on March 11, 2011. The notification boundary was measured from 8201 Park Avenue South because the uses requiring a conditional use permit (school, day care and place of assembly/community center) were proposed on that parcel. The required additional parking is also being constructed on 8201 Park Avenue South (note that the construction of on-site parking is approved administratively and does not require notice). At the four public hearings, the City

heard from neighborhood residents who submitted comments, called in with questions or attended the public hearings in response to the notice. Note that Bloomington's standard of 500 foot notification for conditional use permit public hearings exceeds the State standard of 350 feet. Notice is sent to the property owner of record according to the City Assessor's records.

An email announcing the Planning Commission agenda and providing a link to additional online information was sent to everyone subscribed to receive updates through the E-Subscribe system. Currently, the City has 539 subscribers to Planning Commission updates.

To subscribe to the Planning Commission's email updates, [click here](#).

Emails announcing the City Council agendas and providing links to additional online information were sent to everyone subscribed to receive updates through the E-Subscribe system. Currently, the City has 576 subscribers to City Council updates.

To subscribe to the City Council's email updates, [click here](#).

Planning Commission and City Council agendas are also posted on the City's website in advance of the meeting.

Public hearings are aired both live and through frequent replay on cable TV on The Bloomington Channel 14.

Public hearings are streamed live on the internet and are available for review after the meeting.

In this case, the Bloomington Sun Current also provided its own coverage of the application.

Did the City Council take parking into consideration when approving the application?

Yes, the issue of parking received significant discussion during the public hearings. To address concerns regarding the overall level of parking for both City park and Al Farooq use during various combinations of uses, the City Council adopted the following conditions of approval:

- a. Prior to the issuance of a certificate of occupancy for use of the building for assembly, the property owner/applicant must obtain all required approvals for and construct at least 25 City Code compliant additional on-site parking spaces on land owned by the property owner/applicant;
- b. Prior to use of the building as a school and prior to the use of the spaces identified as school classrooms, the property owner/applicant must obtain all required approvals for and construct at least 25 City Code compliant on-site parking spaces (in addition to parking spaces described in Condition a above) on land owned or permanently controlled by the property owner/applicant;
1. Prior to the issuance of any certificate of occupancy, the property owner/applicant must sign a proof of parking agreement prepared by the City that: identifies the location for the construction of 50 City Code compliant on-site parking spaces (in addition to the parking spaces identified in Conditions a and b above) on land owned or permanently controlled by the property owner/applicant; and
2. Agrees that the additional 50 parking spaces must be constructed if overflow parking occurs;
- c. While the school/day care is in session, the use of the large gymnasium and cafeteria is limited to school/day care activities;
- d. While other on-site assembly areas are in use, the use of the large gymnasium and cafeteria is limited to student activities that do not generate additional parking demand;

- e. A sidewalk connection, as approved by the City Engineer, linking the school with the southeast Smith Park parking spaces must be constructed if overflow parking occurs (AFYFC has constructed this sidewalk on private property. As with any private sidewalk, public use is at the discretion of the owner.);
- f. The user of the site must maintain rights to utilize the parking spaces on land not owned by the property owner/applicant as identified in the staff report and must provide copies of agreements/leases to the Planning Manager;
- g. Changes in occupancy, building use or access to the parking spaces on land not owned by the property owner/applicant as identified in the staff report must be reviewed and approved by the Planning Manager and may require an amendment to the Conditional Use Permit;
- h. Joint parking and outdoor recreation/athletic facilities usage agreements between the City and the property owner must be updated by September 1, 2011 to reflect proposed site use patterns, subject to the approval of the Parks and Recreation Manager;
- i. The property owner, subject to the review and approval of the Parks and Recreation Manager, must prepare in January of each year, an annual plan that coordinates the use of joint parking areas and outdoor recreation/athletic facilities in a manner that minimizes overlapping demand;
- j. The capacity of the large gymnasium is limited to 500 occupants;
- k. The property owner must provide traffic control services if overflow parking occurs; Additional parking constructed would be built on privately owned property (not on parkland).

Will the sale of Concordia Academy have an impact on parking for people using the soccer and football fields?

The City and School have agreements that permit joint use of much of the parking on school and park property (not including the City parking lot on the east side of Smith Park, which is open for school or general public use during posted park hours only). The City is working with AFYFC to develop an updated and consolidated agreement for Council consideration. The public's use of the parking lot adjacent to the baseball field and soccer/football field will continue as when the Lutheran High School/Concordia Academy was active in the building. The heaviest use by Al Farooq is anticipated during Friday daytime assemblies, which has not been a prime use time for the fields, as well as during a handful of special events scheduled at the community/family center. As was the case with the Lutheran High School/Concordia Academy occupancy, Parks and Recreation staff will meet at least annually to coordinate activity schedules in order to minimize parking conflicts.

What remedies are available if overflow parking occurs?

City remedies include:

In addition to the 25 parking spaces that were required to be constructed prior to assembly use and the 25 parking spaces that were required to be constructed prior to school use, the approval requires the applicant to construct up to 50 additional parking spaces if overflow parking becomes a problem.

Enforcing occupancy limits.

Adding on-street parking restrictions.

Revoking the Conditional Use Permit if City Codes or conditions of approval are violated.

If there is an emergency caused by overflow parking, call the Police Department at 911.

Potential applicant remedies include:

Constructing additional surface parking beyond the 100 additional parking spaces discussed above. Land is available for additional parking on site.

Arranging for off-site parking accessed via shuttle bus.

Managing use combinations and event timing to avoid overflow.

To report off-street parking complaints, contact the Environmental Health Division at 952-563-8934 or envhealth@BloomingtonMN.gov. To report on-street parking complaints, contact the Police Department non-emergency line at 952-563-8804.

Would additional parking cause flooding in the area?

The additional parking approved for this site meets City storm water management standards. Part of those standards require that the runoff rate of storm water exiting the site during target storm events after development of the parking areas not exceed the runoff rate of storm water exiting the site before development of the parking areas. In other words, improvements are required on site to ensure possible flooding for neighbors is not made worse. The standards also require water quality control for storm water exiting the new parking areas.

How will times of peak activity compare to past uses?

The site has been used in the past as a combined school (Concordia Academy) and place of assembly (Maranatha Community Church). Unlike the past uses which likely had peak activity during sporting or school events in the evenings, the Al Farooq Youth and Family Center anticipates peak activity midday Fridays during their assemblies, which is the reason for providing additional parking.

Are changes proposed at Smith Park?

No changes are proposed at Smith Park. People may continue to use Smith Park in the future as they are allowed to use Smith Park today.

Will the public still have access to the football/soccer field, the basketball court and tennis court behind the school?

The Lutheran High School Association and the City of Bloomington jointly developed and funded parking areas, the football/soccer field, the basketball court and the tennis court behind the school. Agreements between the Association and the City provide for joint parking and for joint use of the football/soccer field, the basketball court and the tennis court through the year 2024 and can be further extended. The agreements run with the land, so AFYFC acquired the rights to use the jointly developed parking and the requirement to make available for public use the jointly developed fields and courts. Access to the fields and courts is provided from Smith Park.

Did the Bloomington School District request a loan from the City of Bloomington to purchase 8201 Park Ave. S.?

No, the Bloomington School District did not request a loan from the City of Bloomington. The sale of the property was a private transaction to which the City was not a party. The City does not have the authority to facilitate or prohibit the sale of the property between private parties. Nothing in the property records

limited the transfer of the property from Concordia to any buyer. Whether or not the Bloomington School District purchases a given property, either outright or through its eminent domain authority is solely the decision of the Board for the Independent School District.

To what extent are there flooding issues in the neighborhood? Did the City take away park land in Smith Park to address such flooding?

Storm water has flowed to Smith Park since the 1950s.

The majority of storm sewer serving in the neighborhood was installed in the 1950s and 1960s. It was designed according to accepted standards at the time and, generally, will fully convey storm water from a "10-Year" storm (a storm event expected to have a 10% probability of occurring each year). When larger events occur, the storm sewer, by design, reaches its capacity and water temporarily ponds in low spots in the street. In 1988, significant additional infrastructure was installed to address flooding that occurred in the area as a result of record rain fall events in 1987. The criteria used in design of this infrastructure was to prevent impact to structures from a "100-Year" storm (a storm event expected to have a 1% probability of occurring each year). These improvements resulted in FEMA significantly reducing the size of the 100-Year Floodplain surrounding Smith Park on Flood Insurance Rate Maps.

Beyond the temporary street flooding which occurs during larger rain events, Staff is not aware of any significant public flooding issues in the neighborhood since the 1988 improvements.

As with most neighborhoods in the community, some localized flooding and drainage concerns exist on private properties which are often a result of local grading and building placement.

As part of the master plan for Smith Park (1998), the storm water pond in Smith Park was modified to improve storm water quality and to act as an amenity to the park. The modifications did not significantly change the overall size or footprint of the pond, nor were they intended to provide more flood storage or address any identified neighborhood flooding issues.

Was Smith Park used to provide storm water rate control for Walmart that was originally planned on the former Olson Chain and Cable site?

Early in the Walmart development process, the Olson Chain and Cable property was considered as a possible site for a Walmart pond. As plans developed, Walmart decided not to use the Olson Chain and Cable property. Rather, Walmart provided rate control on their own site and paid a lump sum fee to the City to satisfy their water quality requirements – which was allowed at that time. The City then utilized those funds for regional water quality improvements.

Later, in an unrelated project, the City purchased the Olson Chain and Cable property as part of the right-of-way acquisitions needed for American Boulevard. After taking the right-of-way the City needed, the City sold the remainder of the property to a hotel, which used the land to build a new pool/recreation addition as the land was not needed for additional storm water ponds.

The Smith Park improvements were guided by a Master Plan prepared by S.E.H. (October 1, 1998) that provided for a number of identified needs – one of which was an opportunity to improve water quality and enhance natural habitat. Comparing "before" and "after" aerials of the site, the total area dedicated to ponding did not change much. Rather, it was reconfigured slightly to meet recreational needs and to allow for better storm water treatment. The decision to remove the two northerly youth ballfields was not directly tied to the storm water improvements. Instead, it was based on the results of the master planning process that weighed all the identified programmatic needs of the park.

Has the size of Smith Park decreased?

The boundaries of the park have been constant since the City transferred land to the School District to construct Northgate Elementary School in 1961. The school building and gymnasium are on private property as are the football field, tennis courts and basketball court. The City has a lease through 2024 (with a possible ten year extension to 2034) for shared use of the football field, tennis courts and basketball court, subject to limitations contained in the lease.

Overall Smith Park has 24.67 acres including the pond. The approximate surface area of the pond in 1998 was 6.3 acres while the approximate surface area of the pond today is 7.0 acres, an increase in pond surface of about 11%.

[Click here to view a 1998 aerial photo of the pond and](#)

[Click here to view a 2009 aerial photo of the pond.](#)

This expansion was tied to the adopted Smith Park Master Plan approved in 1998 to include improvements to water quality, wildlife habitat, and overall ecology to make the pond more of an amenity to go along with the park improvement project.

[Click here to view an overlay of the changes in the pond surface area after 1998.](#)

The expansion of the pond to accommodate these additional purposes reduced the dry land area of Smith Park by roughly 3%.

Will parking for the Al Farooq Youth and Family Center decrease the size of Smith Park?

No additional parking is proposed on City owned or leased park land. Al Farooq Youth and Family Center was required by condition of approval (see parking conditions of approval above) to construct 25 additional parking spaces prior to assembly use, construct 25 additional parking spaces prior to school use and submit plans for 50 potential additional spaces should they prove to be needed ("proof of parking" spaces). All of these parking spaces are on private property. None are on park property.

Has the City responded to concerns about potential uses that Al-Farooq mentioned in a promotional YouTube video?

The following is a letter sent to Al Farooq Youth and Family Center to assist in clarifying uses allowed under the approvals they have received from the City.

[07/29/11 Letter to Al Farooq Youth and Family Center \(74KB, 2-page PDF\)](#)

The following reply letter was received from the Al Farooq Youth and Family Center.

[07/31/11 Letter from Dar Al Farooq \(142KB, 2-page PDF\)](#)

What public use and access rights exist on the AFYFC site?

There are agreements and easements in place that provide for limited public use and access on the AFYFC site, including joint use recreational fields and courts, joint parking areas for Smith Park and two public trails. The map below (see link) depicts the location of those amenities. The remainder of the AFYFC site is not available for public use except at the invitation of the property owner.

[Map depicting AFYFC site](#)

The two letters linked below further answer questions on public access rights along with other neighbor questions.

05/18/12 Letter to neighbors

06/01/12 Letter to neighbors

Is the use of the football field for a semi-pro football team a permitted activity under the City's Zoning Code?

Please see the following letter:

07/16/12 Letter to AFYFC

Where can I find out more?

Review the staff report prepared for the Planning Commission.

Review Planning Commission and City Council minutes (see links above).

Contact the Planning Division with any questions at planning@BloomingtonMN.gov or 952-563-8920.

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May 18, 2012

Mr. Hyder Aziz, Director of the Al Farooq Community Center
8201 Park Avenue South
Bloomington, MN 55420

Ms. Sally Ness
8127 Oakland Avenue South
Bloomington, MN 55420

Ms. Vi Rozek
8214 Park Avenue
Bloomington, MN 55420

Subject: Al Farooq Youth and Family Center (AFYFC)

Dear Neighbors:

The change in property ownership in the property now belonging to AFYFC has over the past year has given rise to concerns by various parties over changes in the use of that property, as well as adjacent City properties.

American Legal Framework

Fundamental to the United States' legal system (as well as those of many countries) is the concept of ownership of property, including real estate, and the protection of those ownership rights within the context of laws relating to its use.

Whether owned by a private individual, nonprofit or religious group, a commercial enterprise or public body, entrance onto or use of real property by others is solely at the invitation of the owner (lessee or agent) and it remains within the owner's sole discretion to invite or exclude others from the use of his or her property. In fact, even with respect to real property that is owned by a public body, the public's right to use and access that property can be restricted so as to protect and promote the primary purpose for which the property is owned and operated.

Among those limitations commonly imposed on the use of public property are the following:

- Parks – Hours and conduct
- Revenue facilities such as sporting and arts venues – Payment of admission

- Facilities used for maintenance and public safety such as fire stations – Restricted access – for the security of the facility, protection of the public and efficiency of the governmental operation
- Security facilities – Generally off limits – again except for very limited public areas.
- Schools – Due to concerns for student safety, these have become considerably more restricted over the years to general public access.

As noted, use of publicly owned property is restricted by the laws and regulations applicable to the type of property, the jurisdiction in which it is located and other rules protecting the public health, safety and welfare. Though not frequently exercised, members of the public can be individually trespassed from publicly owned property for various violations of the rules governing the use of the property, criminal activity, or to protect the public from a general or specific threat.

Private property owners have the legal authority to exclude others for any reason they choose. Where limited public use of private property is allowed by agreement, or public easement, the public's use of that property is restricted to the rights set forth in the agreement or easement.

Ownership Change

Since Bloomington's inception, first as a township in 1858, the property now owned by AFYFC has been primarily owned by private entities, first as a farm, then a developer who deeded it over to the City of Bloomington in 1953, who in turn deeded it to the Bloomington School District that built an elementary school on it. The Bloomington School District chose to sell the property to the Lutheran High School Association in 1990 when the School District determined they no longer wanted to continue ownership and used the funds obtained in the sale for its K-12 educational purposes. As a private entity, the Lutheran High Association (subsequently Concordia) chose to operate it as a school and for a while rented a portion of it to the Maranatha Community Church for their worship and related usage during times that did not interfere with their use for a school. This usage for educational and / or religious purposes was common for other former and even present Bloomington Schools including but not limited to:

- Former:
 - River Ridge Elementary/Trinity School and church rental
 - Nine Mile School/Church of God
 - Cedar Crest Elementary/Cedar Valley Church and School
 - Brookside Elementary/Bloomington Covenant Church
 - Penn Junior/NW Health Sciences
 - Creekside Elementary/City of Bloomington Community Center
- Present:
 - Oak Grove/Church rental

(Additionally Bloomington Lincoln was sold for a private commercial usage.)

Lutheran/Concordia subsequently has sold it to the Dar Al Farooq organization, which closed on the property on August 23, 2011, and uses it for purposes that are in many ways similar to the way Lutheran HS used it.

The manner in which the property was used in the past and the extent to which the public had access to that property in the past does not entitle the public to continued access to the property. The property's owner, current or subsequent, has the ability to limit public access and use in the future, including the full exclusion of the public absent public contractual rights or easements. In a similar manner, the prior manner or scope of usage of the private property does not limit the owner's ability to change that usage provided it remains within the laws and ordinances that govern that property.

Joint Use Agreement

City of Bloomington Contractual Rights on the AFYFC Property

When the property went from the school district's ownership to the private ownership of Lutheran HS, the City of Bloomington, in exchange for certain considerations, obtained a limited scope of contractual rights for the use by the City. It is important to note that the City's rights do not automatically flow to any member of the public. The extent of public access to the property is defined by the contractual rights provided to the City. For public health, welfare and safety reasons or operational concerns, City policies may further restrict public access. The agreements with the property owner and the City for use, which are depicted in the enclosed map, include:

- Use for parking of a portion of the Lutheran HS parking area;
- Use for parking of the parking area on what was Xcel property that was previously leased to Lutheran HS (and subsequently sold to Dar Al Farooq by Xcel Energy).
- Use of a pedestrian way on the north side of the site providing access from 82nd Street to Smith Park – in exchange for the access across and use of the Lutheran HS lots granted to the City, Lutheran HS was granted use of Smith Park for their use;
- The City of Bloomington was granted scheduled usage of the Lutheran HS owned sports fields on the basis that it did not interfere with Lutheran HS usage. On an annual basis, this is worked out operationally. This contractual right is not a broader right of the public to use as they choose. The fence was constructed to help limit the usage to that provided for in the contract, in a manner not dissimilar to playing fields owned by the City or school district that are fenced and limited to specific scheduled uses.;
- The public, through the rights provided to the City of Bloomington, can use the tennis courts and basketball court on AFYFC property with access from Smith Park;
- Use of the walking path that parallels Park Avenue south from Smith Park which is located on an easement on that portion of the property sold by Xcel to Dar Al Farooq (the City's rights remain unchanged by the change in ownership).

The contractual usage rights previously granted to the City do not include any additional rights of access to the public other than the areas listed above. For example, there is no agreement for public access to other parking areas on the property or to sidewalks abutting the building.

Former Lutheran HS / AFYFC's Rights to City Property

As part of the agreements noted above, Lutheran High was granted certain rights to the use of City property:

- The parking lot in the SE corner between the sports fields and Chicago Avenue north of 83rd Street, which is owned by the City. Under the agreement, Lutheran HS had specific rights to parking on that lot. Those rights carried forward to AFYFC upon the sale of the property.
- Smith Park Parking lot – In like manner they have contractual rights to use this parking lot as well.

Additionally, persons coming to Lutheran HS and now AFYFC activities, being members of the public, have the same rights as any member of the public to park on any of the City owned lots and as members of the public to use the parks and other public spaces to the same extent granted any other member of the public. They also may park on the street to the same extent as any other member of the public, whether or not the AFYFC's parking lots are full.

The contractual usage by the City of Bloomington on Lutheran HS property was transferred as part of the sale to Dar Al Farooq, and remains in force pending any mutually agreed on amendment of the two parties.

Joint Use Agreement Amendment

The City and Dar Al Farooq are in the process of negotiating a revised use Agreement that will consolidate the current use agreements related to the AFYFC and Smith Park properties. Pending the conclusion of that negotiation, the two parties will meet to discuss the scheduling for the coming seasons. (Enclosed please find a copy of the current agreement originally negotiated with Lutheran High School in 1990). The CUP requirements did include a condition that the current use agreements be updated by September of 2011, and to date that has not occurred. The conclusion of this process was first delayed due to unforeseen delays in closing on the purchase of the property, followed by delays as City staff worked to draft a consolidated agreement for the negotiations noted above. The fact that the deadline set forth in the CUP condition was not met does not constitute a violation of the conditions that would meet the legal standard for revocation of the CUP.

Respect for Property Ownership

In the United States, it is a social norm for people to respect the property rights of the owner and only proceed onto the property of another when invited by the owner (lessee or agent.) Most property owners or lessees, though perhaps tolerant of an occasional person coming on to their property, do not generally find it acceptable for persons they have not invited onto their property to peek in their windows or have pets conduct their bodily functions on their property – especially when animal defecation is not cleaned up (which itself is a violation of City code and not allowed on either publicly or privately owned property).

Persons who choose to violate property rights of another by proceeding uninvited onto their property are at risk of being trespassed and can cause the property owner to enforce their property rights by excluding all members of the public not specifically invited. The City ordinance regarding trespass can be found in Section 12.09 to 12.11.

Neighborhood Disagreements

Events, distrust and or animosity can occur between persons in a neighborhood. The City on occasion finds itself caught in the middle of such disputes by neighbors who for whatever reason are not able to maintain a "neighborly relation."

These types of disputes can often result in escalating patterns of retaliatory actions. Many of these actions are often found to be unpleasant and unwelcome but fall short of constituting a violation of law. The City has no legal authority to intervene in private conduct falling short of a law violation. In such cases, it is often best for the parties to voluntarily agree to mediation to see if they can mutually resolve their private dispute. This is voluntary on the part of each party and the desire of one not to participate in dispute resolution does not give the other party any legal or morally superior position to assert that they should be able to override the other party's property rights.

Other items brought to the City's attention recently include:

- Land Use Limitation:
 - While the FAQ's have previously noted the CUP limitation of the gym's use when the other designated assembly areas are in use to control the impact of parking spilling into the neighborhood, there is nothing that precludes the gym being used for assemblies provided the Conditional Use Permit limit of 500 gym occupants is observed. The gym occupancy limit applied to both Lutheran HS and AFYFC. The property may be used for a number of customarily incidental uses to serve AFYFC members including such things as health care and food service, incidental uses that are provided by many schools and religious facilities in the community. Presently the staff is working with AFYFC related to their food service equipment installation in the same way the City does with any other membership facility in the community.
- Trucks at night:
 - While it has been indicated to Council members that there has been at least one occasion that there were trucks on the AFYFC site in the middle of the night. To the extent that this did occur at the community center is not in and of itself illegal unless there was a verified noise code violation.
 - Police dispatch received no calls reporting such activity at the time it occurred and patrol officers in the area did not observe any such activity. (Persons who observe such activity that they believe may be illegal should immediately contact police dispatch at 911 or if they do not desire to call 911 can also call 952-563-4900 which is the administrative number for the Police Department. During normal business hours, that number is answered by a switchboard operator who can respond to routine questions or concerns. During non-business hours that phone is answered by police dispatchers. When appropriate, police officers will respond and investigate.)

- **Parking and Traffic:**
 - As previously noted in the FAQ's and other correspondence to the neighborhood on these matters, the appropriate City departments are monitoring the issues of parking in the neighborhood, as well as the speed and volume as part of the study that this fall will correspond with the neighborhood on any recommendations that evolve from that study on limitations regarding on-street parking in the neighborhood.
- **City of Bloomington Neighborhood Gardens:**
 - Apparently there may be individuals at AFYFC who believe the garden is part of the AFYFC property and therefore they have told neighbors that it belonged to AFYFC and that they would need to leave.
 - That is not the case, which as noted in the attached graphic, is on property that Xcel owns the property that is leased to the City of Bloomington. In a phone conversation with Mr. Aziz of AFYFC on May 14th, he indicated he clearly knows that it is not part of their property and is informing AFYFC members and employees.

While the City will continue to investigate concerns of the various parties – repeated accusations that are found to have little if any basis will result in limiting that responsiveness to only public safety items. In addition, the City Code provides that if a complainant repeatedly calls police on matters not constituting a law violation, after being told that the conduct complained of does not amount to a violation of law, that person may be fined \$250 for each such future call to police.

Neighbor Assistance

The City is willing to host a neighborhood event if agreeable to Al Farooq and if so – open to those in the neighborhood who desire to build mutual understand among those in the neighborhood.

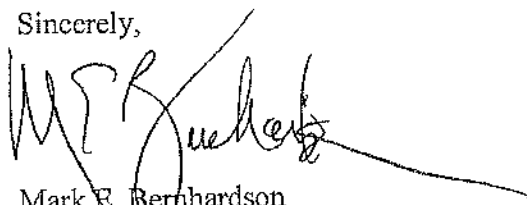
Conclusion

We invite you to continue to explore ways that you can at a minimum learn to respect the rights of others to the enjoyment of their property, just as you would like them to respect your property. If you are able to find ways to move beyond that to build mutual trust and respect with your fellow neighbors – it will provide a better result for the neighborhood, as distrust in a neighborhood ultimately benefits no one.

The United States, which has been the land of opportunity for people from across the world over the past nearly 400 years – and has been the longest operating democratic republic in the world for the past almost 240 years – has done so as succeeding generations of newcomers to this country have been able, despite differing backgrounds, to live peaceably with other newcomers and their descendants from other parts of the world in a neighborly manner that we each like to pride ourselves on, so that each is able to enjoy the fruits of living in this wonderful country.

We invite you to help be part of the solution to the benefit of all in your neighborhood.

Sincerely,



Mark E. Bernhardson
City Manager

cc: Mayor and City Council
City Attorney
Community Development Director
Community Services Director
Chief of Police
8201 Park Avenue South/FAQ Web page after 5/21/12



June 1, 2012

Mr. Hyder Aziz, Director of the Al Farooq Community Center
8201 Park Avenue South
Bloomington, MN 55420

Ms. Sally Ness
8127 Oakland Avenue South
Bloomington, MN 55420

Ms. Vi Rozek
8214 Park Avenue
Bloomington, MN 55420

RE: Al Farooq Youth and Family Center (AFYFC), 8201 Park Avenue S.

Dear Neighbors:

Since the letter of May 18, 2012 sent to you, additional questions and comments have been addressed to both staff and City Council members. This letter provides the response to those.

Question – Does this mean that the joint areas are NOT for us to ever walk on?

- Publicly owned property – While the agreement does provide for certain joint usage on selected portions of the city owned property, originally with Lutheran High and now AFYFC as owners as noted in the May 18th letter, as members of the public, AFYFC members enjoy the same ability to use park property as any other member of the public. The joint use agreement does not restrict access to the publicly owned property for the public or a member of the AFYFC, as members of the public.
- Privately owned AFYFC Property - Without an agreement or easement establishing such a right, the public has no legal right to cross private property. As discussed in the May 18th letter and shown in the map attached with the letter, there are two sidewalks on AFYFC property that have public easements and are therefore available for public use. The public also has the right to park and go directly north to and from Smith Park on the joint parking areas shown on the map and on to the basketball and tennis courts on AFYFC property, but only from the public property that abuts those facilities. The playfield on the east of the building can be accessed from public property directly abutting public property by participants and observers for the times of athletic events scheduled by the City pursuant to the joint use agreement.

Just as you have the authority to determine who is allowed to access or use your private property, AFYFC has the same authority on their property. Portions of the AFYFC private property where the public is not granted access via easement or agreement are not available for use by the public except at the sole invitation of the private property owner.

Question – What capacity limits apply to AFYFC?

- Occupancy Capacity - Fire and Building Codes limit number of occupants for health and safety reasons. The approved Conditional Use Permit (CUP) further limits occupancy in light of available parking. The key occupancy limits that apply to the AFYFC site are:
 - The occupancy of the gymnasium is limited to 500 occupants (CUP condition of approval that also applied to Lutheran High School).
 - The occupancy of the assembly room is limited to 300 occupants (Building Code)
- Parking Capacity

Building Area	Parking Need if No Limitations On Simultaneous Uses Existed	Parking Need When Gym is Not in Use	Parking Need When Assembly/School Not in Use
Assembly Halls	100	100	Not In Use
Day Care	7	7	7
School/Cafeteria	40	40	Not In Use
Fitness Areas	17	17	17
Small Gym	41	41	41
Large Gym	166	Not In Use	166
Offices	9	9	9
Total	380	214	240
Available Parking			
Spaces on Site May of 2012	157	157	157
Joint Use Spaces	110	110	110
Total May of 2012	267	267	267
Additional proof of parking spaces	49	49	49
Grand Total if Proof of Parking Were Constructed	316	316	316

At the time the Council considered the Conditional Use Permit, staff analyzed the parking needs for various rooms and activities in the building which were presented to the Planning Commission and City Council and was the basis for the condition that restricted simultaneous use of the assembly area and gym. The chart above summarizes the parking calculations.

- The use of the gymnasium and cafeteria is limited to student activities that do not generate additional parking demand when the assembly room is in use and when school/day care is in session (CUP conditions – the intent is to avoid overflow parking)
 - A proof of parking agreement exists that requires the construction of additional parking spaces on site if overflow parking were to become an ongoing problem (CUP condition)
 - The key to the conditional use limitation is not the estimated individual building area usage. Rather the concept is that the aggregate parking demand for those spaces does not exceed the capacity of available parking via ownership and agreement. If the assembly area is in use, the combined expected demand for all but the large gym is substantially under the available parking. If the assembly rooms and school are not in the use, the demand for the other uses still remains under the available parking. Should the parking demand exceed the total available spaces of 267 and routinely overflow, then the private owner will be required to develop more parking on site via the proof of parking agreement.
 - Observations to date indicate limited use of the available joint use parking. AFYFC has access to under the joint use agreement. Similar to most places of assembly, the peak parking demand represents a very small percentage of the time in a week.
- As is the case with other places of assembly in Bloomington, outside of the provisions listed above, there is no limitation on the number of assemblies that can occur, the times of day assemblies can occur or the rooms in which assemblies can occur.
 - Parking along Park Avenue is presently allowed as on any other street without parking limitations. Any member of the public can park there. As you know, the City continues to monitor parking conditions on Park Avenue. This fall the City will consider whether to amend on-street parking restrictions in the vicinity. Ongoing AFYFC on-street parking coupled with full parking lots at AFYFC and the joint parking lots they share with the City would be an indicator that AFYFC needs to construct its proof of parking spaces.

Questions on Facility use – Is the AFYFC allowed to have a soccer tournament or a “fair” as they plan on June 16th, with pony rides, a petting zoo, jumping castle, face painting, etc.?

- The soccer/football field owned by AFYFC and via the joint use agreement may be scheduled by the City of Bloomington (not the public in general). AFYFC is free to use their private property including the athletic field for a the soccer tournament as long as it does not conflict with usage scheduled by the City in conjunction with AFYFC per the joint agreement. The City anticipates the parking demands and activity associated with a four team soccer tournament will be less than or similar to parking and activity for LHS basketball or football games in the past.
- Events such as fairs and fund raisers are fairly common at places of assembly in Bloomington. Like any other place of assembly, AFYFC will need to obtain selected approvals when required by City ordinance (public assembly/entertainment license, temporary food license, temporary commercial animal license, electrical permits, and transient merchant license if applicable).

It appears from the correspondence regarding AFYFC, that there is an understanding by some that AFYFC should not be allowed to do any activity that was not explicitly set forth in their application for the conditional use. The opposite is true. As noted in the letter of May 18, 2012, the property is privately owned and the city's regulations on this property are the same as any other church or private school in the community. AFYFC is allowed to do the same very broad range of activities as any other similar privately owned property that do not specifically violate the city's laws or conditions set forth in the Conditional Use Permit. The activities commented on are ones that are found routinely occurring at similar properties in the community on an ongoing basis without comment from the surrounding neighborhood.

Comment – Trash is overflowing the dumpster.

- The City has issued orders regarding the trash.

Comment – The lighting in the west parking lot is not operational.

- An AFYFC contractor inadvertently cut the power to the lighting in the west lot. The City has communicated with AFYFC about restoring the lighting and about not using the west parking lot after dark until the lighting is restored. Because the lighting has not yet been restored, the City has issued orders regarding the non-operational lighting.

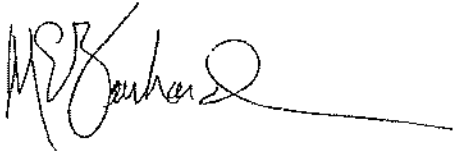
Ms. Sally Ness, Ms. Vi Rozek and Mr. Hyder Aziz
June 1, 2012
Page 5 of 5

Comment – I would like a copy of the most recent agreement.

- The 1990 agreement between Lutheran High and the City of Bloomington is the original agreement and has been subsequently modified by the following agreements, which are enclosed:
 - Agreement between the City and Lutheran High School Association, dated August 14, 1990
 - Use Agreement between the City and LHSA, dated August 14, 1990
 - Cross Parking Agreement dated December 20, 1993
 - Agreement between City and LHSA, dated May 17, 1999
 - Addendum Agreement between the City and LHSA, dated June 26, 2000
 - Development Agreement, dated October 6, 2003
- The objective of the current revised joint use agreement discussions between the City and AFYFC is to pull these related agreements into one comprehensive agreement for consideration by the City Council and AFYFC.

Neighborhood Event - In response to the May 18th letter, AFYFC has indicated their willingness to participate in such an event and City staff will work with AFYFC to coordinate it.

Sincerely,

A handwritten signature in black ink, appearing to read 'Mark Bernhardson', followed by a long horizontal line extending to the right.

Mark Bernhardson
City Manager

Copy: Mayor and City Council
Community Development Director
Community Services Director
Public Works Director
City Attorney
Chief of Police
8201 Park Webpage

Enclosure J



October 7, 2013

Hyder Aziz, Director
Dar Al Farooq
983 17th Ave. S.E.
Minneapolis, MN 55414

RE: 8201 Park Ave. S.

Dear Mr. Aziz:

The City has recently received questions regarding a website that refers to an "Islamic University of Minnesota Bloomington". The website also refers to the university's location as 8201 Park Avenue South in Bloomington. Given the references in the website, I want to reiterate, as staff has verbally discussed with you, that a university is not among the uses that have been approved through the May 2, 2011 Conditional Use Permit for 8201 Park Avenue South.

While it is customarily incidental for community centers and places of assembly to offer religious and language instruction, the university as presented on the website has several characteristics that make it a separate and distinct use. These characteristics include:

- A high number of courses;
- The collection of tuition;
- The tracking of credits;
- The issuance of formal degrees; and
- The self-characterization of the use as a university.

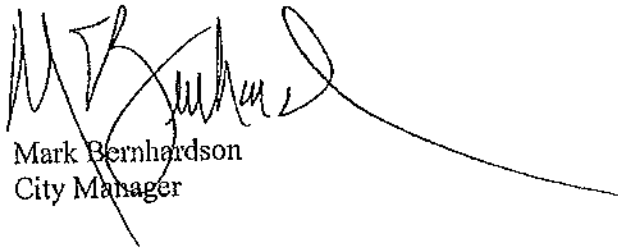
The City understands you are evaluating potential commercial sites in which to hold these classes in Bloomington and/or in other cities. In most Bloomington commercial zoning districts, post-secondary education requires the issuance of a Conditional Use Permit. Please contact our Planning Division as you evaluate potential sites. There are several issues that would need to be examined, including available parking. Once you select a location, please allow up to 120 days after submitting a complete application to go through the review process for a Conditional Use Permit.

Hyder Aziz, Director
Dar Al Farooq
983 17th Ave. S.E.
Minneapolis, MN 55414

2

Please contact Glen Markegard, Planning Manager, at (952) 563-8923 to discuss any questions you have related to this letter but keep in mind that a university is not among the uses approved through the May 2, 2011 Conditional Use Permit for 8201 Park Avenue South.

Sincerely,

A handwritten signature in black ink, appearing to read 'Mark Bernhardson', is written over the printed name and title. The signature is stylized and extends to the right with a long horizontal stroke.

Mark Bernhardson
City Manager

cc: Mayor and Council Members
Community Development Director
City Planning Manager